

1 **Subtitle D—Highway Safety**

2 **SEC. 1401. HIGHWAY SAFETY IMPROVEMENT PROGRAM.**

3 (a) SAFETY IMPROVEMENT.—

4 (1) IN GENERAL.—Section 148 of title 23,
5 United States Code, is amended to read as follows:

6 **“§ 148. Highway safety improvement program**

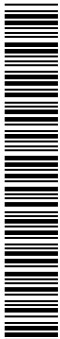
7 “(a) DEFINITIONS.—In this section, the following
8 definitions apply:

9 “(1) HIGH RISK RURAL ROAD.—The term ‘high
10 risk rural road’ means any roadway functionally
11 classified as a rural major or minor collector or a
12 rural local road—

13 “(A) on which the accident rate for fatali-
14 ties and incapacitating injuries exceeds the
15 statewide average for those functional classes of
16 roadway; or

17 “(B) that will likely have increases in traf-
18 fic volume that are likely to create an accident
19 rate for fatalities and incapacitating injuries
20 that exceeds the statewide average for those
21 functional classes of roadway.

22 “(2) HIGHWAY SAFETY IMPROVEMENT PRO-
23 GRAM.—The term ‘highway safety improvement pro-



1 gram’ means the program carried out under this sec-
2 tion.

3 “(3) HIGHWAY SAFETY IMPROVEMENT
4 PROJECT.—

5 “(A) IN GENERAL.—The term ‘highway
6 safety improvement project’ means a project de-
7 scribed in the State strategic highway safety
8 plan that—

9 “(i) corrects or improves a hazardous
10 road location or feature; or

11 “(ii) addresses a highway safety prob-
12 lem.

13 “(B) INCLUSIONS.—The term ‘highway
14 safety improvement project’ includes a project
15 for one or more of the following:

16 “(i) An intersection safety improve-
17 ment.

18 “(ii) Pavement and shoulder widening
19 (including addition of a passing lane to
20 remedy an unsafe condition).

21 “(iii) Installation of rumble strips or
22 another warning device, if the rumble
23 strips or other warning devices do not ad-
24 versely affect the safety or mobility of
25 bicyclists, pedestrians, and the disabled.



1 “(iv) Installation of a skid-resistant
2 surface at an intersection or other location
3 with a high frequency of accidents.

4 “(v) An improvement for pedestrian
5 or bicyclist safety or safety of the disabled.

6 “(vi) Construction of any project for
7 the elimination of hazards at a railway-
8 highway crossing that is eligible for fund-
9 ing under section 130, including the sepa-
10 ration or protection of grades at railway-
11 highway crossings.

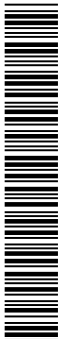
12 “(vii) Construction of a railway-high-
13 way crossing safety feature, including in-
14 stallation of protective devices.

15 “(viii) The conduct of a model traffic
16 enforcement activity at a railway-highway
17 crossing.

18 “(ix) Construction of a traffic calming
19 feature.

20 “(x) Elimination of a roadside obsta-
21 cle.

22 “(xi) Improvement of highway signage
23 and pavement markings.



1 “(xii) Installation of a priority control
2 system for emergency vehicles at signalized
3 intersections.

4 “(xiii) Installation of a traffic control
5 or other warning device at a location with
6 high accident potential.

7 “(xiv) Safety-conscious planning.

8 “(xv) Improvement in the collection
9 and analysis of crash data.

10 “(xvi) Planning, integrated interoper-
11 able emergency communications equip-
12 ment, operational activities, or traffic en-
13 forcement activities (including police as-
14 sistance) relating to workzone safety.

15 “(xvii) Installation of guardrails, bar-
16 riers (including barriers between construc-
17 tion work zones and traffic lanes for the
18 safety of motorists and workers), and
19 crash attenuators.

20 “(xviii) The addition or retrofitting of
21 structures or other measures to eliminate
22 or reduce accidents involving vehicles and
23 wildlife.

24 “(xix) Installation and maintenance of
25 signs (including fluorescent, yellow-green



1 signs) at pedestrian-bicycle crossings and
2 in school zones.

3 “(xx) Construction and yellow-green
4 signs at pedestrian-bicycle crossings and in
5 school zones.

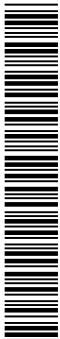
6 “(xxi) Construction and operational
7 improvements on high risk rural roads.

8 “(4) SAFETY PROJECT UNDER ANY OTHER SEC-
9 TION.—

10 “(A) IN GENERAL.—The term ‘safety
11 project under any other section’ means a
12 project carried out for the purpose of safety
13 under any other section of this title.

14 “(B) INCLUSION.—The term ‘safety
15 project under any other section’ includes a
16 project to promote the awareness of the public
17 and educate the public concerning highway
18 safety matters (including motorcyclist safety)
19 and a project to enforce highway safety laws.

20 “(5) STATE HIGHWAY SAFETY IMPROVEMENT
21 PROGRAM.—The term ‘State highway safety im-
22 provement program’ means projects or strategies in-
23 cluded in the State strategic highway safety plan
24 carried out as part of the State transportation im-
25 provement program under section 135(g).



1 “(6) STATE STRATEGIC HIGHWAY SAFETY
2 PLAN.—The term ‘State strategic highway safety
3 plan’ means a plan developed by the State transpor-
4 tation department that—

5 “(A) is developed after consultation with—

6 “(i) a highway safety representative of
7 the Governor of the State;

8 “(ii) regional transportation planning
9 organizations and metropolitan planning
10 organizations, if any;

11 “(iii) representatives of major modes
12 of transportation;

13 “(iv) State and local traffic enforce-
14 ment officials;

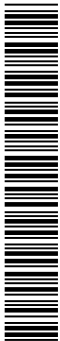
15 “(v) persons responsible for admin-
16 istering section 130 at the State level;

17 “(vi) representatives conducting Oper-
18 ation Lifesaver;

19 “(vii) representatives conducting a
20 motor carrier safety program under section
21 31102, 31106, or 31309 of title 49;

22 “(viii) motor vehicle administration
23 agencies; and

24 “(ix) other major State and local safe-
25 ty stakeholders;



1 “(B) analyzes and makes effective use of
2 State, regional, or local crash data;

3 “(C) addresses engineering, management,
4 operation, education, enforcement, and emer-
5 gency services elements (including integrated,
6 interoperable emergency communications) of
7 highway safety as key factors in evaluating
8 highway projects;

9 “(D) considers safety needs of, and high-
10 fatality segments of, public roads;

11 “(E) considers the results of State, re-
12 gional, or local transportation and highway
13 safety planning processes;

14 “(F) describes a program of projects or
15 strategies to reduce or eliminate safety hazards;

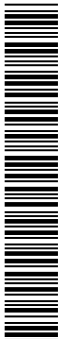
16 “(G) is approved by the Governor of the
17 State or a responsible State agency; and

18 “(H) is consistent with the requirements of
19 section 135(g).

20 “(b) PROGRAM.—

21 “(1) IN GENERAL.—The Secretary shall carry
22 out a highway safety improvement program.

23 “(2) PURPOSE.—The purpose of the highway
24 safety improvement program shall be to achieve a



1 significant reduction in traffic fatalities and serious
2 injuries on public roads.

3 “(c) ELIGIBILITY.—

4 “(1) IN GENERAL.—To obligate funds appor-
5 tioned under section 104(b)(5) to carry out this sec-
6 tion, a State shall have in effect a State highway
7 safety improvement program under which the
8 State—

9 “(A) develops and implements a State
10 strategic highway safety plan that identifies and
11 analyzes highway safety problems and opportu-
12 nities as provided in paragraph (2);

13 “(B) produces a program of projects or
14 strategies to reduce identified safety problems;

15 “(C) evaluates the plan on a regular basis
16 to ensure the accuracy of the data and priority
17 of proposed improvements; and

18 “(D) submits to the Secretary an annual
19 report that—

20 “(i) describes, in a clearly understand-
21 able fashion, not less than 5 percent of lo-
22 cations determined by the State, using cri-
23 teria established in accordance with para-
24 graph (2)(B)(ii), as exhibiting the most se-
25 vere safety needs; and



1 “(ii) contains an assessment of—

2 “(I) potential remedies to haz-
3 arduous locations identified;

4 “(II) estimated costs associated
5 with those remedies; and

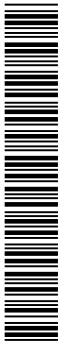
6 “(III) impediments to implemen-
7 tation other than cost associated with
8 those remedies.

9 “(2) IDENTIFICATION AND ANALYSIS OF HIGH-
10 WAY SAFETY PROBLEMS AND OPPORTUNITIES.—As
11 part of the State strategic highway safety plan, a
12 State shall—

13 “(A) have in place a crash data system
14 with the ability to perform safety problem iden-
15 tification and countermeasure analysis;

16 “(B) based on the analysis required by
17 subparagraph (A)—

18 “(i) identify hazardous locations, sec-
19 tions, and elements (including roadside ob-
20 stacles, railway-highway crossing needs,
21 and unmarked or poorly marked roads)
22 that constitute a danger to motorists (in-
23 cluding motorcyclists), bicyclists, pedes-
24 trians, and other highway users; and



1 “(ii) using such criteria as the State
2 determines to be appropriate, establish the
3 relative severity of those locations, in terms
4 of accidents, injuries, deaths, traffic vol-
5 ume levels, and other relevant data;

6 “(C) adopt strategic and performance-
7 based goals that—

8 “(i) address traffic safety, including
9 behavioral and infrastructure problems and
10 opportunities on all public roads;

11 “(ii) focus resources on areas of
12 greatest need; and

13 “(iii) are coordinated with other State
14 highway safety programs;

15 “(D) advance the capabilities of the State
16 for traffic records data collection, analysis, and
17 integration with other sources of safety data
18 (such as road inventories) in a manner that—

19 “(i) complements the State highway
20 safety program under chapter 4 and the
21 commercial vehicle safety plan under sec-
22 tion 31102 of title 49;

23 “(ii) includes all public roads;

24 “(iii) identifies hazardous locations,
25 sections, and elements on public roads that



1 constitute a danger to motorists (including
2 motorecyclists), bicyclists, pedestrians, the
3 disabled, and other highway users; and

4 “(iv) includes a means of identifying
5 the relative severity of hazardous locations
6 described in clause (iii) in terms of acci-
7 dents, injuries, deaths, and traffic volume
8 levels;

9 “(E)(i) determine priorities for the correc-
10 tion of hazardous road locations, sections, and
11 elements (including railway-highway crossing
12 improvements), as identified through crash data
13 analysis;

14 “(ii) identify opportunities for preventing
15 the development of such hazardous conditions;
16 and

17 “(iii) establish and implement a schedule
18 of highway safety improvement projects for haz-
19 ard correction and hazard prevention; and

20 “(F)(i) establish an evaluation process to
21 analyze and assess results achieved by highway
22 safety improvement projects carried out in ac-
23 cordance with procedures and criteria estab-
24 lished by this section; and



1 “(ii) use the information obtained under
2 clause (i) in setting priorities for highway safety
3 improvement projects.

4 “(d) ELIGIBLE PROJECTS.—

5 “(1) IN GENERAL.—A State may obligate funds
6 apportioned to the State under section 104(b)(5) to
7 carry out—

8 “(A) any highway safety improvement
9 project on any public road or publicly owned bi-
10 cycle or pedestrian pathway or trail; or

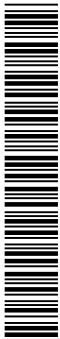
11 “(B) as provided in subsection (e), other
12 safety projects.

13 “(2) USE OF OTHER FUNDING FOR SAFETY.—

14 “(A) EFFECT OF SECTION.—Nothing in
15 this section prohibits the use of funds made
16 available under other provisions of this title for
17 highway safety improvement projects.

18 “(B) USE OF OTHER FUNDS.—States are
19 encouraged to address the full scope of their
20 safety needs and opportunities by using funds
21 made available under other provisions of this
22 title (except a provision that specifically pro-
23 hibits that use).

24 “(e) FLEXIBLE FUNDING FOR STATES WITH A STRA-
25 TEGIC HIGHWAY SAFETY PLAN.—



1 “(1) IN GENERAL.—To further the implementa-
2 tion of a State strategic highway safety plan, a State
3 may use up to 10 percent of the amount of funds
4 apportioned to the State under section 104(b)(5) for
5 a fiscal year to carry out safety projects under any
6 other section as provided in the State strategic high-
7 way safety plan if the State certifies that—

8 “(A) the State has met needs in the State
9 relating to railway-highway crossings; and

10 “(B) the State has met the State’s infra-
11 structure safety needs relating to highway safe-
12 ty improvement projects.

13 “(2) OTHER TRANSPORTATION AND HIGHWAY
14 SAFETY PLANS.—Nothing in this subsection requires
15 a State to revise any State process, plan, or program
16 in effect on the date of enactment of this section.

17 “(f) HIGH RISK RURAL ROADS.—

18 “(1) IN GENERAL.—After making an apporportion-
19 ment under section 104(b)(5) for a fiscal year begin-
20 ning after September 30, 2005, the Secretary shall
21 ensure, from amounts made available to carry out
22 this section for such fiscal year, that a total of
23 \$90,000,000 of such apportionment is set aside by
24 the States, proportionally according to the share of
25 each State of the total amount so apportioned, for



1 use only for construction and operational improve-
2 ments on high risk rural roads.

3 “(2) SPECIAL RULE.—A State may use funds
4 apportioned to the State pursuant to this subsection
5 for any project under this section if the State cer-
6 tifies to the Secretary that the State has met all of
7 State needs for construction and operational im-
8 provements on high risk rural roads.

9 “(g) REPORTS.—

10 “(1) IN GENERAL.—A State shall submit to the
11 Secretary a report that—

12 “(A) describes progress being made to im-
13 plement highway safety improvement projects
14 under this section;

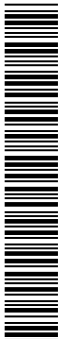
15 “(B) assesses the effectiveness of those im-
16 provements; and

17 “(C) describes the extent to which the im-
18 provements funded under this section contribute
19 to the goals of—

20 “(i) reducing the number of fatalities
21 on roadways;

22 “(ii) reducing the number of roadway-
23 related injuries;

24 “(iii) reducing the occurrences of
25 roadway-related crashes;



1 “(iv) mitigating the consequences of
2 roadway-related crashes; and

3 “(v) reducing the occurrences of
4 crashes at railway-highway crossings.

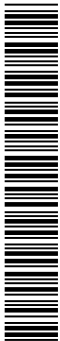
5 “(2) CONTENTS; SCHEDULE.—The Secretary
6 shall establish the content and schedule for a report
7 under paragraph (1).

8 “(3) TRANSPARENCY.—The Secretary shall
9 make reports submitted under subsection (c)(1)(D)
10 available to the public through—

11 “(A) the Web site of the Department; and

12 “(B) such other means as the Secretary
13 determines to be appropriate.

14 “(4) DISCOVERY AND ADMISSION INTO EVI-
15 DENCE OF CERTAIN REPORTS, SURVEYS, AND INFOR-
16 MATION.—Notwithstanding any other provision of
17 law, reports, surveys, schedules, lists, or data com-
18 piled or collected for any purpose directly relating to
19 paragraph (1) or subsection (c)(1)(D), or published
20 by the Secretary in accordance with paragraph (3),
21 shall not be subject to discovery or admitted into
22 evidence in a Federal or State court proceeding or
23 considered for other purposes in any action for dam-
24 ages arising from any occurrence at a location iden-



1 tified or addressed in such reports, surveys, sched-
2 ules, lists, or other data.

3 “(h) FEDERAL SHARE OF HIGHWAY SAFETY IM-
4 PROVEMENT PROJECTS.—Except as provided in sections
5 120 and 130, the Federal share of the cost of a highway
6 safety improvement project carried out with funds appor-
7 tioned to a State under section 104(b)(5) shall be 90 per-
8 cent.”.

9 (2) CLERICAL AMENDMENT.—The analysis for
10 chapter 1 of such title is amended by striking the
11 item relating to section 148 and inserting the fol-
12 lowing:

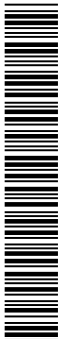
“148. Highway safety improvement program.”.

13 (3) CONFORMING AMENDMENTS.—

14 (A) TRANSFERS OF APPORTIONMENTS.—
15 Section 104(g) of such title is amended in the
16 first sentence by striking “sections 130, 144,
17 and 152 of this title” and inserting “sections
18 130 and 144”.

19 (B) UNIFORM TRANSFERABILITY.—Section
20 126(a) of such title is amended by inserting
21 “under” after “State’s apportionment”.

22 (C) OTHER SECTIONS.—Sections 154, 164,
23 and 409 of such title are amended by striking
24 “152” each place it appears and inserting
25 “148”.



1 (b) APPORTIONMENT OF HIGHWAY SAFETY IM-
2 PROVEMENT PROGRAM FUNDS.—Section 104(b) of such
3 title (as amended by section 1103 of this Act) is
4 amended—

5 (1) in the matter preceding paragraph (1) by
6 inserting after “Improvement program,” the fol-
7 lowing: “the highway safety improvement program,”;
8 and

9 (2) by adding at the end the following:

10 “(5) HIGHWAY SAFETY IMPROVEMENT PRO-
11 GRAM.—

12 “(A) IN GENERAL.—For the highway safe-
13 ty improvement program, in accordance with
14 the following formula:

15 “(i) $33\frac{1}{3}$ percent of the apporportion-
16 ments in the ratio that—

17 “(I) the total lane miles of Fed-
18 eral-aid highways in each State; bears
19 to

20 “(II) the total lane miles of Fed-
21 eral-aid highways in all States.

22 “(ii) $33\frac{1}{3}$ percent of the apporportion-
23 ments in the ratio that—



1 “(I) the total vehicle miles trav-
2 eled on lanes on Federal-aid highways
3 in each State; bears to

4 “(II) the total vehicle miles trav-
5 eled on lanes on Federal-aid highways
6 in all States.

7 “(iii) $33\frac{1}{3}$ percent of the apportion-
8 ments in the ratio that—

9 “(I) the number of fatalities on
10 the Federal-aid system in each State
11 in the latest fiscal year for which data
12 are available; bears to

13 “(II) the number of fatalities on
14 the Federal-aid system in all States in
15 the latest fiscal year for which data
16 are available.

17 “(B) MINIMUM APPORTIONMENT.—Not-
18 withstanding subparagraph (A), each State
19 shall receive a minimum of $\frac{1}{2}$ of 1 percent of
20 the funds apportioned under this paragraph.”.

21 (d) ELIMINATION OF HAZARDS RELATING TO RAIL-
22 WAY-HIGHWAY CROSSINGS.—

23 (1) FUNDS FOR PROTECTIVE DEVICES.—Sec-
24 tion 130(e) of such title is amended—



1 (A) by striking “At” and inserting the fol-
2 lowing:

3 “(1) IN GENERAL.—Before making an appor-
4 tionment under section 104(b)(5) for a fiscal year,
5 the Secretary shall set aside, from amounts made
6 available to carry out the highway safety improve-
7 ment program under section 148 for such fiscal
8 year, at least \$220,000,000 for the elimination of
9 hazards and the installation of protective devices at
10 railway-highway crossings. At”; and

11 (B) by adding at the end the following:

12 “(2) SPECIAL RULE.—If a State demonstrates
13 to the satisfaction of the Secretary that the State
14 has met all its needs for installation of protective de-
15 vices at railway-highway crossings, the State may
16 use funds made available by this section for other
17 purposes under this subsection.”.

18 (2) APPORTIONMENT.—Section 130(f) of such
19 title is amended to read as follows:

20 “(f) APPORTIONMENT.—

21 “(1) FORMULA.—Fifty percent of the funds set
22 aside to carry out this section pursuant to sub-
23 section (e)(1) shall be apportioned to the States in
24 accordance with the formula set forth in section
25 104(b)(3)(A), and 50 percent of such funds shall be



1 apporportioned to the States in the ratio that total pub-
2 lic railway-highway crossings in each State bears to
3 the total of such crossings in all States.

4 “(2) MINIMUM APPORTIONMENT.—Notwith-
5 standing paragraph (1), each State shall receive a
6 minimum of $\frac{1}{2}$ of 1 percent of the funds appor-
7 tioned under paragraph (1).

8 “(3) FEDERAL SHARE.—The Federal share
9 payable on account of any project financed with
10 funds set aside to carry out this section shall be 90
11 percent of the cost thereof.”.

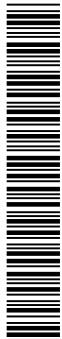
12 (3) BIENNIAL REPORTS TO CONGRESS.—Sec-
13 tion 130(g) of such title is amended in the third
14 sentence—

15 (A) by inserting “and the Committee on
16 Commerce, Science, and Transportation,” after
17 “Public Works”; and

18 (B) by striking “not later than April 1 of
19 each year” and inserting “, not later than April
20 1, 2006, and every 2 years thereafter,”.

21 (4) EXPENDITURE OF FUNDS.—Section 130 of
22 such title is amended by adding at the end the fol-
23 lowing:

24 “(k) EXPENDITURE OF FUNDS.—Not more than 2
25 percent of funds apporportioned to a State to carry out this



1 section may be used by the State for compilation and anal-
2 ysis of data in support of activities carried out under sub-
3 section (g).”.

4 (e) TRANSITION.—

5 (1) IMPLEMENTATION.—Except as provided in
6 paragraph (2), the Secretary shall approve obliga-
7 tions of funds apportioned under section 104(b)(5)
8 of title 23, United States Code (as added by sub-
9 section (b)) to carry out section 148 of that title,
10 only if, not later than October 1 of the second fiscal
11 year beginning after the date of enactment of this
12 Act, a State has developed and implemented a State
13 strategic highway safety plan as required pursuant
14 to section 148(c) of that title.

15 (2) INTERIM PERIOD.—

16 (A) IN GENERAL.—Before October 1 of the
17 second fiscal year after the date of enactment
18 of this Act and until the date on which a State
19 develops and implements a State strategic high-
20 way safety plan, the Secretary shall apportion
21 funds to a State for the highway safety im-
22 provement program and the State may obligate
23 funds apportioned to the State for the highway
24 safety improvement program under section 148
25 for projects that were eligible for funding under



1 sections 130 and 152 of that title, as in effect
2 on the day before the date of enactment of this
3 Act.

4 (B) NO STRATEGIC HIGHWAY SAFETY
5 PLAN.—If a State has not developed a strategic
6 highway safety plan by October 1, 2007, the
7 State shall receive for the highway safety im-
8 provement program for each subsequent fiscal
9 year until the date of development of such plan
10 an amount that equals the amount apportioned
11 to the State for that program for fiscal year
12 2007.

13 **SEC. 1402. WORKER INJURY PREVENTION AND FREE FLOW**
14 **OF VEHICULAR TRAFFIC.**

15 Not later than 1 year after the date of enactment
16 of this Act, the Secretary shall issue regulations to de-
17 crease the likelihood of worker injury and maintain the
18 free flow of vehicular traffic by requiring workers whose
19 duties place them on or in close proximity to a Federal-
20 aid highway (as defined in section 101 of title 23, United
21 States Code) to wear high visibility garments. The regula-
22 tions may also require such other worker-safety measures
23 for workers with those duties as the Secretary determines
24 to be appropriate.



1 **SEC. 1403. TOLL FACILITIES WORKPLACE SAFETY STUDY.**

2 (a) IN GENERAL.—The Secretary shall conduct a
3 study on the safety of highway toll collection facilities, in-
4 cluding toll booths, to determine the safety of the facilities
5 for the toll collectors who work in and around the facili-
6 ties, including consideration of—

7 (1) the effect of design or construction of the
8 facilities on the likelihood of vehicle collisions with
9 the facilities;

10 (2) the safety of crosswalks used by toll collec-
11 tors in transit to and from toll booths;

12 (3) the extent of the enforcement of speed lim-
13 its in the vicinity of the facilities;

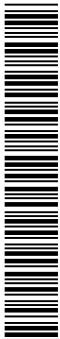
14 (4) the use of warning devices, such as vibra-
15 tion and rumble strips, to alert drivers approaching
16 the facilities;

17 (5) the use of cameras to record traffic viola-
18 tions in the vicinity of the facilities;

19 (6) the use of traffic control arms in the vicin-
20 ity of the facilities;

21 (7) law enforcement practices and jurisdictional
22 issues that affect safety in the vicinity of the facili-
23 ties; and

24 (8) the incidence of accidents and injuries in
25 the vicinity of toll booths.



1 (b) DATA COLLECTION.—As part of the study, the
2 Secretary shall collect data regarding the incidence of acci-
3 dents and injuries in the vicinity of highway toll collection
4 facilities.

5 (c) REPORT.—Not later than 1 year after the date
6 of enactment of this Act, the Secretary shall submit to
7 the Committee on Transportation and Infrastructure of
8 the House of Representatives and the Committee on Envi-
9 ronment and Public Works of the Senate a report on the
10 results of the study, together with recommendations for
11 improving toll facilities workplace safety.

12 (d) FUNDING.—

13 (1) AUTHORIZATION OF APPROPRIATIONS.—

14 There is authorized to be appropriated to carry out
15 this section, out of the Highway Trust Fund (other
16 than the Mass Transit Account), \$500,000 for fiscal
17 year 2006.

18 (2) CONTRACT AUTHORITY.—Funds authorized
19 to be appropriated by this section shall be available
20 for obligation in the same manner and to the same
21 extent as if the funds were apportioned under chap-
22 ter 1 of title 23, United States Code, except that the
23 Federal share of the cost of the project shall be 100
24 percent, and the funds shall remain available until
25 expended and shall not be transferable.



1 **SEC. 1404. SAFE ROUTES TO SCHOOL PROGRAM.**

2 (a) ESTABLISHMENT.—Subject to the requirements
3 of this section, the Secretary shall establish and carry out
4 a safe routes to school program for the benefit of children
5 in primary and middle schools.

6 (b) PURPOSES.—The purposes of the program shall
7 be—

8 (1) to enable and encourage children, including
9 those with disabilities, to walk and bicycle to school;

10 (2) to make bicycling and walking to school a
11 safer and more appealing transportation alternative,
12 thereby encouraging a healthy and active lifestyle
13 from an early age; and

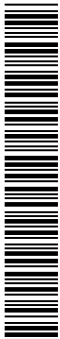
14 (3) to facilitate the planning, development, and
15 implementation of projects and activities that will
16 improve safety and reduce traffic, fuel consumption,
17 and air pollution in the vicinity of schools.

18 (c) APPORTIONMENT OF FUNDS.—

19 (1) IN GENERAL.—Subject to paragraphs (2),
20 (3), and (4), amounts made available to carry out
21 this section for a fiscal year shall be apportioned
22 among the States in the ratio that—

23 (A) the total student enrollment in primary
24 and middle schools in each State; bears to

25 (B) the total student enrollment in pri-
26 mary and middle schools in all States.



1 (2) MINIMUM APPORTIONMENT.—No State
2 shall receive an apportionment under this section for
3 a fiscal year of less than \$1,000,000.

4 (3) SET-ASIDE FOR ADMINISTRATIVE EX-
5 PENSES.—Before apportioning under this subsection
6 amounts made available to carry out this section for
7 a fiscal year, the Secretary shall set aside not more
8 than \$3,000,000 of such amounts for the adminis-
9 trative expenses of the Secretary in carrying out this
10 subsection.

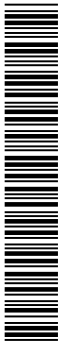
11 (4) DETERMINATION OF STUDENT ENROLL-
12 MENTS.—Determinations under this subsection con-
13 cerning student enrollments shall be made by the
14 Secretary.

15 (d) ADMINISTRATION OF AMOUNTS.—Amounts ap-
16 portioned to a State under this section shall be adminis-
17 tered by the State's department of transportation.

18 (e) ELIGIBLE RECIPIENTS.—Amounts apportioned to
19 a State under this section shall be used by the State to
20 provide financial assistance to State, local, and regional
21 agencies, including nonprofit organizations, that dem-
22 onstrate an ability to meet the requirements of this sec-
23 tion.

24 (f) ELIGIBLE PROJECTS AND ACTIVITIES.—

25 (1) INFRASTRUCTURE-RELATED PROJECTS.—

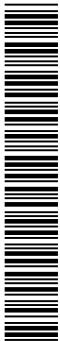


1 (A) IN GENERAL.—Amounts apportioned
2 to a State under this section may be used for
3 the planning, design, and construction of infra-
4 structure-related projects that will substantially
5 improve the ability of students to walk and bi-
6 cycle to school, including sidewalk improve-
7 ments, traffic calming and speed reduction im-
8 provements, pedestrian and bicycle crossing im-
9 provements, on-street bicycle facilities, off-street
10 bicycle and pedestrian facilities, secure bicycle
11 parking facilities, and traffic diversion improve-
12 ments in the vicinity of schools.

13 (B) LOCATION OF PROJECTS.—Infrastruc-
14 ture-related projects under subparagraph (A)
15 may be carried out on any public road or any
16 bicycle or pedestrian pathway or trail in the vi-
17 cinity of schools.

18 (2) NONINFRASTRUCTURE-RELATED ACTIVI-
19 TIES.—

20 (A) IN GENERAL.—In addition to projects
21 described in paragraph (1), amounts appor-
22 tioned to a State under this section may be
23 used for noninfrastructure-related activities to
24 encourage walking and bicycling to school, in-
25 cluding public awareness campaigns and out-



1 reach to press and community leaders, traffic
2 education and enforcement in the vicinity of
3 schools, student sessions on bicycle and pedes-
4 trian safety, health, and environment, and fund-
5 ing for training, volunteers, and managers of
6 safe routes to school programs.

7 (B) ALLOCATION.—Not less than 10 per-
8 cent and not more than 30 percent of the
9 amount apportioned to a State under this sec-
10 tion for a fiscal year shall be used for noninfra-
11 structure-related activities under this subpara-
12 graph.

13 (3) SAFE ROUTES TO SCHOOL COORDINATOR.—
14 Each State receiving an apportionment under this
15 section for a fiscal year shall use a sufficient amount
16 of the apportionment to fund a full-time position of
17 coordinator of the State's safe routes to school pro-
18 gram.

19 (g) CLEARINGHOUSE.—

20 (1) IN GENERAL.—The Secretary shall make
21 grants to a national nonprofit organization engaged
22 in promoting safe routes to schools to—

23 (A) operate a national safe routes to school
24 clearinghouse;



1 (B) develop information and educational
2 programs on safe routes to school; and

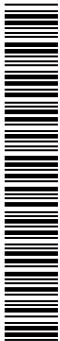
3 (C) provide technical assistance and dis-
4 seminate techniques and strategies used for
5 successful safe routes to school programs.

6 (2) FUNDING.—The Secretary shall carry out
7 this subsection using amounts set aside for adminis-
8 trative expenses under subsection (c)(3).

9 (h) TASK FORCE.—

10 (1) IN GENERAL.—The Secretary shall establish
11 a national safe routes to school task force composed
12 of leaders in health, transportation, and education,
13 including representatives of appropriate Federal
14 agencies, to study and develop a strategy for advanc-
15 ing safe routes to school programs nationwide.

16 (2) REPORT.—Not later than March 31, 2006,
17 the Secretary shall submit to Congress a report con-
18 taining the results of the study conducted, and a de-
19 scription of the strategy developed, under paragraph
20 (1) and information regarding the use of funds for
21 infrastructure-related and noninfrastructure-related
22 activities under paragraphs (1) and (2) of subsection
23 (f).



1 (3) FUNDING.—The Secretary shall carry out
2 this subsection using amounts set aside for adminis-
3 trative expenses under subsection (c)(3).

4 (i) APPLICABILITY OF TITLE 23.—Funds made avail-
5 able to carry out this section shall be available for obliga-
6 tion in the same manner as if such funds were apportioned
7 under chapter 1 of title 23, United States Code; except
8 that such funds shall not be transferable and shall remain
9 available until expended, and the Federal share of the cost
10 of a project or activity under this section shall be 100 per-
11 cent.

12 (j) TREATMENT OF PROJECTS.—Notwithstanding
13 any other provision of law, projects assisted under this
14 subsection shall be treated as projects on a Federal-aid
15 system under chapter 1 of title 23, United States Code.

16 (k) DEFINITIONS.—In this section, the following defi-
17 nitions apply:

18 (1) IN THE VICINITY OF SCHOOLS.—The term
19 “in the vicinity of schools” means, with respect to a
20 school, the area within bicycling and walking dis-
21 tance of the school (approximately 2 miles).

22 (2) PRIMARY AND MIDDLE SCHOOLS.—The
23 term “primary and middle schools” means schools
24 providing education from kindergarten through
25 eighth grade.



1 **SEC. 1405. ROADWAY SAFETY IMPROVEMENTS FOR OLDER**
2 **DRIVERS AND PEDESTRIANS.**

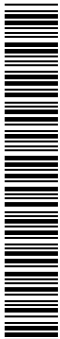
3 (a) IN GENERAL.—The Secretary shall carry out a
4 program to improve traffic signs and pavement markings
5 in all States (as such term is defined in section 101 of
6 title 23, United States Code) in a manner consistent with
7 the recommendations included in the publication of the
8 Federal Highway Administration entitled “Guidelines and
9 Recommendations to Accommodate Older Drivers and Pe-
10 destrians (FHWA–RD–01–103)” and dated October
11 2001.

12 (b) FEDERAL SHARE.—The Federal share of the cost
13 of a project carried out under this section shall be deter-
14 mined in accordance with section 120 of title 23, United
15 States Code.

16 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
17 authorized to be appropriated such sums as may be nec-
18 essary to carry out this section for each of fiscal years
19 2005 through 2009.

20 **SEC. 1406. SAFETY INCENTIVE GRANTS FOR USE OF SEAT**
21 **BELTS.**

22 Section 157(g)(1) of title 23, United States Code, is
23 amended by striking “2004, and” and all that follows
24 through “2005” and inserting “2004, and \$112,000,000
25 for fiscal year 2005”.



1 **SEC. 1407. SAFETY INCENTIVES TO PREVENT OPERATION**
2 **OF MOTOR VEHICLES BY INTOXICATED PER-**
3 **SONS.**

4 (a) CODIFICATION OF PENALTY.—Section 163 of
5 title 23, United States Code, is amended—

6 (1) by redesignating subsection (e) as sub-
7 section (f); and

8 (2) by inserting after subsection (d) the fol-
9 lowing:

10 “(e) PENALTY.—

11 “(1) IN GENERAL.—On October 1, 2003, and
12 October 1 of each fiscal year thereafter, if a State
13 has not enacted or is not enforcing a law described
14 in subsection (a), the Secretary shall withhold from
15 amounts apportioned to the State on that date
16 under each of paragraphs (1), (3), and (4) of section
17 104(b) an amount equal to the amount specified in
18 paragraph (2).

19 “(2) AMOUNT TO BE WITHHELD.—If a State is
20 subject to a penalty under paragraph (1), the Sec-
21 retary shall withhold for a fiscal year from the ap-
22 portionments of the State described in paragraph
23 (1) an amount equal to a percentage of the funds
24 apportioned to the State under paragraphs (1), (3),
25 and (4) of section 104(b) for fiscal year 2003. The
26 percentage shall be as follows:



1 “(A) For fiscal year 2004, 2 percent.

2 “(B) For fiscal year 2005, 4 percent.

3 “(C) For fiscal year 2006, 6 percent.

4 “(D) For fiscal year 2007, and each fiscal
5 year thereafter, 8 percent.

6 “(3) FAILURE TO COMPLY.—If, within 4 years
7 from the date that an apportionment for a State is
8 withheld in accordance with this subsection, the Sec-
9 retary determines that the State has enacted and is
10 enforcing a law described in subsection (a), the ap-
11 portionment of the State shall be increased by an
12 amount equal to the amount withheld. If, at the end
13 of such 4-year period, any State has not enacted or
14 is not enforcing a law described in subsection (a)
15 any amounts so withheld from such State shall
16 lapse.”.

17 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
18 163(f)(1) of such title (as redesignated by subsection
19 (a)(1) of this section) is amended by striking “2004, and”
20 and inserting “2004, and \$110,000,000 for fiscal year
21 2005”.

22 (c) REPEAL.—Section 351 of the Department of
23 Transportation and Related Agencies Appropriations Act,
24 2001 (23 U.S.C. 163 note; 114 Stat. 1356A–34) is re-
25 pealed.



1 **SEC. 1408. IMPROVEMENT OR REPLACEMENT OF HIGHWAY**
2 **FEATURES ON NATIONAL HIGHWAY SYSTEM.**

3 (a) **UPDATE OF IMPLEMENTATION GUIDANCE.**—The
4 Secretary, in cooperation with the American Association
5 of State Highway and Transportation Officials, shall up-
6 date as appropriate the August 28, 1998, Federal High-
7 way Administration Policy on Implementation of the re-
8 port of the Transportation Research Board of the Na-
9 tional Research Council entitled “NCHRP Report 350–
10 Recommended Procedures for the Safety Performance
11 Evaluation of Highway Features”.

12 (b) **GUIDANCE.**—The Secretary, in cooperation with
13 the Association, shall publish updated guidance regarding
14 the conditions under which States, when choosing to im-
15 prove or replace highway features on the National High-
16 way System, should improve or replace such features with
17 highway features that have been tested, evaluated, and
18 found to be acceptable under the guidelines of the report
19 referred to in subsection (a).

20 (c) **MATTERS TO BE CONSIDERED.**—Guidance pub-
21 lished in accordance with subsection (a)—

22 (1) shall address those highway features that
23 are covered by the guidelines in the report referred
24 to in subsection (b); and

25 (2) shall consider types of highway features,
26 cost-effectiveness, and practicality of replacement



1 with highway features that have been found to be
2 acceptable under the report guidelines to determine
3 conditions when such features should be used.

4 **SEC. 1409. WORK ZONE SAFETY GRANTS.**

5 (a) IN GENERAL.—The Secretary shall establish and
6 implement a work zone safety grant program under which
7 the Secretary may make grants to nonprofit organizations
8 and not-for-profit organizations to provide training to pre-
9 vent or reduce highway work zone injuries and fatalities.

10 (b) ELIGIBLE ACTIVITIES.—Grants may be made
11 under the program for the following purposes:

12 (1) Training for construction craft workers on
13 the prevention of injuries and fatalities in highway
14 and road construction.

15 (2) Development of guidelines for the preven-
16 tion of highway work zone injuries and fatalities.

17 (3) Training for State and local government
18 transportation agencies and other groups imple-
19 menting guidelines for the prevention of highway
20 work zone injuries and fatalities.

21 (c) FUNDING.—

22 (1) IN GENERAL.—There is authorized to be
23 appropriated from the Highway Trust Fund (other
24 than the Mass Transit Account) to carry out this



1 section \$5,000,000 for each of fiscal years 2006
2 through 2009.

3 (2) CONTRACT AUTHORITY.—Funds authorized
4 by this subsection shall be available for obligation in
5 the same manner as if the funds were apportioned
6 under chapter 1 of title 23, United States Code; ex-
7 cept that such funds shall not be transferable.

8 (d) CONSTRUCTION WORK IN ALASKA.—Section 114
9 of title 23, United States Code, is amended by adding at
10 the end of the following:

11 “(c) CONSTRUCTION WORK IN ALASKA.—

12 “(1) IN GENERAL.—The Secretary shall ensure
13 that a worker who is employed on a remote project
14 for the construction of a highway or portion of a
15 highway located on a Federal-aid system in the
16 State of Alaska and who is not a domiciled resident
17 of the locality shall receive meals and lodging.

18 “(2) LODGING.—The lodging under paragraph
19 (1) shall be in accordance with section 1910.142 of
20 title 29, Code of Federal Regulations (relating to
21 temporary labor camp requirements).

22 “(3) PER DIEM.—

23 “(A) IN GENERAL.—Contractors are en-
24 couraged to use commercial facilities and lodges
25 on remote projects, however, when such facili-



1 ties are not available, per diem in lieu of room
2 and lodging may be paid on remote Federal
3 highway projects at a basic rate of \$75.00 per
4 day or part of a day the worker is employed on
5 the project. Where the contractor provides or
6 furnishes room and lodging or pays a per diem,
7 the cost of the amount shall not be considered
8 a part of wages and shall be excluded from the
9 calculation of wages.

10 “(B) SECRETARY OF LABOR.—Such per
11 diem rate shall be adopted by the Secretary of
12 Labor for all applicable remote Federal highway
13 projects in Alaska.

14 “(C) EXCEPTION.—Per diem shall not be
15 allowed on any of the following remote projects
16 for the construction of a highway or portion of
17 a highway located on a Federal-aid system:

18 “(i) West of Livengood on the Elliot
19 Highway.

20 “(ii) Mile 0 on the Dalton Highway to
21 the North Slope of Alaska; north of Mile
22 20 on the Taylor Highway.

23 “(iii) East of Chicken on the Top of
24 the World Highway and south of Tetlin
25 Junction to the Alaska Canadian border.



1 “(4) DEFINITIONS.—In this subsection, the fol-
2 lowing definitions apply:

3 “(A) REMOTE.—The term ‘remote’, as
4 used with respect to a project, means that the
5 project is 65 road miles or more from the inter-
6 national airport in Fairbanks, Anchorage, or
7 Juneau, Alaska, as the case may be, or is inac-
8 cessible by road in a 2-wheel drive vehicle.

9 “(B) RESIDENT.—The term ‘resident’, as
10 used with respect to a project, means a person
11 living within 65 road miles of the midpoint of
12 the project for at least 12 consecutive months
13 prior to the award of the project.”.

14 **SEC. 1410. NATIONAL WORK ZONE SAFETY INFORMATION**
15 **CLEARINGHOUSE.**

16 (a) GRANTS.—The Secretary shall make grants for
17 fiscal years 2006 through 2009 to a national nonprofit
18 foundation for the operation of the National Work Zone
19 Safety Information Clearinghouse, authorized by section
20 358(b)(2) of Public Law 104–59, created for the purpose
21 of assembling and disseminating, by electronic and other
22 means, information relating to improvement of roadway
23 work zone safety.

24 (b) AUTHORIZATION OF APPROPRIATIONS.—There is
25 authorized to be appropriated out of the Highway Trust



1 Fund (other than the Mass Transit Account) to carry out
2 this section \$1,000,000 for each of fiscal years 2006
3 through 2009.

4 (c) CONTRACT AUTHORITY.—Funds authorized by
5 this subsection shall be available for obligation in the same
6 manner as if the funds were apportioned under chapter
7 1 of title 23, United States Code, except the Federal share
8 of the cost of activities carried out using such funds shall
9 be 100 percent, and such funds shall remain available
10 until expended and shall not be transferable.

11 **SEC. 1411. ROADWAY SAFETY.**

12 (a) ROAD SAFETY.—

13 (1) IN GENERAL.—The Secretary shall enter
14 into an agreement to assist in the activities of a na-
15 tional nonprofit organization that is dedicated solely
16 to improving public road safety—

17 (A) by improving the quality of data per-
18 taining to public road hazards and design fea-
19 tures that affect or increase the severity of
20 motor vehicle crashes;

21 (B) by developing and carrying out a pub-
22 lic awareness campaign to educate State and
23 local transportation officials, public safety offi-
24 cials, and motorists regarding the extent to



1 which public road hazards and design features
2 are a factor in motor vehicle crashes; and

3 (C) by promoting public road safety re-
4 search and technology transfer activities.

5 (2) FUNDING.—There is authorized to be ap-
6 propriated from the Highway Trust Fund (other
7 than the Mass Transit Account) \$500,000 for each
8 of fiscal years 2006 through 2009 to carry out this
9 subsection.

10 (3) APPLICABILITY OF TITLE 23.—Funds made
11 available by this subsection shall be available for ob-
12 ligation in the same manner as if such funds were
13 apportioned under chapter 1 of title 23, United
14 States Code, except that the funds shall remain
15 available until expended.

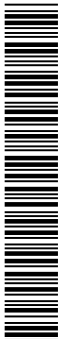
16 (b) BICYCLE AND PEDESTRIAN SAFETY GRANTS.—

17 (1) IN GENERAL.—The Secretary shall make
18 grants to a national, not-for-profit organization en-
19 gaged in promoting bicycle and pedestrian safety—

20 (A) to operate a national bicycle and pe-
21 destrian clearinghouse;

22 (B) to develop information and educational
23 programs; and

24 (C) to disseminate techniques and strate-
25 gies for improving bicycle and pedestrian safety.



1 (2) FUNDING.—There is authorized to be ap-
2 propriated from the Highway Trust Fund (other
3 than the Mass Transit Account) \$300,000 for fiscal
4 year 2005 and \$500,000 for each of fiscal years
5 2006 through 2009 to carry out this subsection.

6 (3) APPLICABILITY OF TITLE 23.—Funds made
7 available by this subsection shall be available for ob-
8 ligation in the same manner as if such funds were
9 apportioned under chapter 1 of title 23, United
10 States Code, except that the funds shall remain
11 available until expended.

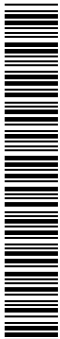
12 **SEC. 1412. IDLING REDUCTION FACILITIES IN INTERSTATE**
13 **RIGHTS-OF-WAY.**

14 Section 111 of title 23, United States Code, is
15 amended by adding at the end the following:

16 “(d) IDLING REDUCTION FACILITIES IN INTERSTATE
17 RIGHTS-OF-WAY.—

18 “(1) IN GENERAL.—Notwithstanding subsection
19 (a), a State may—

20 “(A) permit electrification or other idling
21 reduction facilities and equipment, for use by
22 motor vehicles used for commercial purposes, to
23 be placed in rest and recreation areas, and in
24 safety rest areas, constructed or located on
25 rights-of-way of the Interstate System in the



1 State, so long as those idling reduction meas-
2 ures do not reduce the existing number of des-
3 ignated truck parking spaces at any given rest
4 or recreation area; and

5 “(B) charge a fee, or permit the charging
6 of a fee, for the use of those parking spaces ac-
7 tively providing power to a truck to reduce
8 idling.

9 “(2) PURPOSE.—The exclusive purpose of the
10 facilities described in paragraph (1) (or similar tech-
11 nologies) shall be to enable operators of motor vehi-
12 cles used for commercial purposes—

13 “(A) to reduce idling of a truck while
14 parked in the rest or recreation area; and

15 “(B) to use installed or other equipment
16 specifically designed to reduce idling of a truck,
17 or provide alternative power for supporting
18 driver comfort, while parked.”.

19 **Subtitle E—Construction and** 20 **Contract Efficiency**

21 **SEC. 1501. PROGRAM EFFICIENCIES.**

22 (a) ADVANCE CONSTRUCTION.—Section 115 of title
23 23, United States Code, is amended—

24 (1) by redesignating subsection (c) as sub-
25 section (d); and



1 (2) by striking subsections (a) and (b) and in-
2 serting the following:

3 “(a) IN GENERAL.—The Secretary may authorize a
4 State to proceed with a project authorized under this
5 title—

6 “(1) without the use of Federal funds; and

7 “(2) in accordance with all procedures and re-
8 quirements applicable to the project other than those
9 procedures and requirements that limit the State to
10 implementation of a project—

11 “(A) with the aid of Federal funds pre-
12 viously apportioned or allocated to the State; or

13 “(B) with obligation authority previously
14 allocated to the State.

15 “(b) OBLIGATION OF FEDERAL SHARE.—The Sec-
16 retary, on the request of a State and execution of a project
17 agreement, may obligate all or a portion of the Federal
18 share of a project authorized to proceed under this section
19 from any category of funds for which the project is eligi-
20 ble.”.

21 (b) OBLIGATION AND RELEASE OF FUNDS.—Section
22 118(d) of such title is amended to read as follows:

23 “(d) OBLIGATION AND RELEASE OF FUNDS.—

24 “(1) IN GENERAL.—Funds apportioned or allo-
25 cated to a State for a purpose for any fiscal year



1 shall be considered to be obligated if a sum equal to
2 the total of the funds apportioned or allocated to the
3 State for that purpose for that fiscal year and pre-
4 vious fiscal years is obligated.

5 “(2) RELEASED FUNDS.—Any funds released
6 by the final payment for a project, or by modifying
7 the project agreement for a project, shall be—

8 “(A) credited to the same class of funds
9 previously apportioned or allocated to the State
10 for the project; and

11 “(B) immediately available for obligation.

12 “(3) NET OBLIGATIONS.—Notwithstanding any
13 other provision of law (including a regulation), obli-
14 gations recorded against funds made available under
15 this subsection shall be recorded and reported as net
16 obligations.”.

17 **SEC. 1502. HIGHWAYS FOR LIFE PILOT PROGRAM.**

18 (a) ESTABLISHMENT.—

19 (1) IN GENERAL.—The Secretary shall establish
20 and implement a pilot program to be known as the
21 “Highways for LIFE Pilot Program”.

22 (2) PURPOSE.—The purpose of the pilot pro-
23 gram shall be to advance longer-lasting highways
24 using innovative technologies and practices to ac-



1 comply the fast construction of efficient and safe
2 highways and bridges.

3 (3) OBJECTIVES.—Under the pilot program,
4 the Secretary shall provide leadership and incentives
5 to demonstrate and promote state-of-the-art tech-
6 nologies, elevated performance standards, and new
7 business practices in the highway construction proc-
8 ess that result in improved safety, faster construc-
9 tion, reduced congestion from construction, and im-
10 proved quality and user satisfaction.

11 (b) PROJECTS.—

12 (1) APPLICATIONS.—To be eligible to partici-
13 pate in the pilot program, a State shall submit to
14 the Secretary an application that is in such form
15 and contains such information as the Secretary re-
16 quires. Each application shall contain a description
17 of proposed projects to be carried by the State under
18 the pilot program.

19 (2) ELIGIBILITY.—A proposed project shall be
20 eligible for assistance under the pilot program if the
21 project—

22 (A) constructs, reconstructs, or rehabili-
23 tates a route or connection on a Federal-aid
24 highway eligible for assistance under chapter 1
25 of title 23, United States Code;



1 (B) uses innovative technologies, manufac-
2 turing processes, financing, or contracting
3 methods that improve safety, reduce congestion
4 due to construction, and improve quality; and

5 (C) meets additional criteria as determined
6 by the Secretary.

7 (3) PROJECT PROPOSAL.—A project proposal
8 submitted under paragraph (1) shall contain—

9 (A) an identification and description of the
10 projects to be delivered;

11 (B) a description of how the projects will
12 result in improved safety, faster construction,
13 reduced congestion due to construction, user
14 satisfaction, and improved quality;

15 (C) a description of the innovative tech-
16 nologies, manufacturing processes, financing,
17 and contracting methods that will be used for
18 the proposed projects; and

19 (D) such other information as the Sec-
20 retary may require.

21 (4) SELECTION CRITERIA.—In selecting
22 projects for approval under this section, the Sec-
23 retary shall ensure that the projects provide an eval-
24 uation of a broad range of technologies in a wide va-



1 riety of project types and shall give priority to the
2 projects that—

3 (A) address achieving the Highways for
4 LIFE performance standards for quality, safe-
5 ty, and speed of construction;

6 (B) deliver and deploy innovative tech-
7 nologies, manufacturing processes, financing,
8 contracting practices, and performance meas-
9 ures that will demonstrate substantial improve-
10 ments in safety, congestion, quality, and cost-
11 effectiveness;

12 (C) include innovation that will lead to
13 change in the administration of the State's
14 transportation program to more quickly con-
15 struct long-lasting, high-quality, cost-effective
16 projects that improve safety and reduce conges-
17 tion;

18 (D) are or will be ready for construction
19 within 1 year of approval of the project pro-
20 posal; and

21 (E) meet such other criteria as the Sec-
22 retary determines appropriate.

23 (5) FINANCIAL ASSISTANCE.—

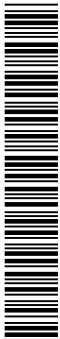
24 (A) FUNDS FOR HIGHWAYS FOR LIFE
25 PROJECTS.—Out of amounts made available to



1 carry out this section for a fiscal year, the Sec-
2 retary may allocate to a State up to 20 percent,
3 but not more than \$5,000,000, of the total cost
4 of a project approved under this section. Not-
5 withstanding any other provision of law, funds
6 allocated to a State under this subparagraph
7 may be applied to the non-Federal share of the
8 cost of construction of a project under title 23,
9 United States Code.

10 (B) USE OF APPORTIONED FUNDS.—A
11 State may obligate not more than 10 percent of
12 the amount apportioned to the State under 1 or
13 more of paragraphs (1), (2), (3), and (4) of sec-
14 tion 104(b) of title 23, United States Code, for
15 a fiscal year for projects approved under this
16 section.

17 (C) INCREASED FEDERAL SHARE.—Not-
18 withstanding sections 120 and 129 of title 23,
19 United States Code, the Federal share payable
20 on account of any project constructed with Fed-
21 eral funds allocated under this section, or ap-
22 portioned under section 104(b) of such title, to
23 a State under such title and approved under
24 this section may amount to 100 percent of the
25 cost of construction of such project.



1 (D) LIMITATION ON STATUTORY CON-
2 STRUCTION.—Except as provided in subpara-
3 graph (C), nothing in this subsection shall be
4 construed as altering or otherwise affecting the
5 applicability of the requirements of chapter 1 of
6 title 23, United States Code (including require-
7 ments relating to the eligibility of a project for
8 assistance under the program and the location
9 of the project), to amounts apportioned to a
10 State for a program under section 104(b) that
11 are obligated by the State for projects approved
12 under this subsection.

13 (6) PROJECT SELECTIONS.—In the period of
14 fiscal years 2005 through 2009, the Secretary, to
15 the maximum extent possible, shall approve at least
16 1 project in each State for participation in the pilot
17 program and for financial assistance under para-
18 graph (5) if the State submits an application and
19 the project meets the eligibility requirements and se-
20 lection criteria under this subsection.

21 (7) MAXIMUM NUMBER OF PROJECTS.—The
22 maximum number of projects for which the Sec-
23 retary may allocate funds under this subsection in a
24 fiscal year is 15.

25 (c) TECHNOLOGY PARTNERSHIPS.—



1 (1) IN GENERAL.—The Secretary may make
2 grants or enter into cooperative agreements or other
3 transactions to foster the development, improvement,
4 and creation of innovative technologies and facilities
5 to improve safety, enhance the speed of highway
6 construction, and improve the quality and durability
7 of highways.

8 (2) FEDERAL SHARE.—The Federal share of
9 the cost of an activity carried out under this sub-
10 section shall not exceed 80 percent.

11 (d) TECHNOLOGY TRANSFER AND INFORMATION
12 DISSEMINATION.—

13 (1) IN GENERAL.—The Secretary shall conduct
14 a highways for life technology transfer program.

15 (2) AVAILABILITY OF INFORMATION.—The Sec-
16 retary shall ensure that the information and tech-
17 nology used, developed, or deployed under this sub-
18 section is made available to the transportation com-
19 munity and the public.

20 (e) STAKEHOLDER INPUT AND INVOLVEMENT.—The
21 Secretary shall establish a process for stakeholder input
22 and involvement in the development, implementation, and
23 evaluation of the Highways for LIFE Pilot Program. The
24 process may include participation by representatives of



1 State departments of transportation and other interested
2 persons.

3 (f) PROJECT MONITORING AND EVALUATION.—The
4 Secretary shall monitor and evaluate the effectiveness of
5 any activity carried out under this section.

6 (g) CONTRACT AUTHORITY.—Except as otherwise
7 provided in this section, funds authorized to be appro-
8 priated to carry out this section shall be available for obli-
9 gation in the same manner as if the funds were appor-
10 tioned under chapter 1 of title 23, United States Code.

11 (h) STATE DEFINED.—In this section, the term
12 “State” has the meaning such term has in section 101(a)
13 of title 23, United States Code.

14 **SEC. 1503. DESIGN BUILD.**

15 Section 112(b)(3) of title 23, United States Code, is
16 amended—

17 (1) by redesignating subparagraph (D) as sub-
18 paragraph (E); and

19 (2) by striking subparagraph (C) and inserting
20 the following:

21 “(C) QUALIFIED PROJECTS.—A qualified
22 project referred to in subparagraph (A) is a
23 project under this chapter (including intermodal
24 projects) for which the Secretary has approved
25 the use of design-build contracting under cri-



1 teria specified in regulations issued by the Sec-
2 retary.

3 “(D) REGULATORY PROCESS.—Not later
4 than 90 days after the date of enactment of the
5 SAFETEA-LU, the Secretary shall issue re-
6 vised regulations under section 1307(c) of the
7 Transportation Equity Act for 21st Century
8 (23 U.S.C. 112 note; 112 Stat. 230) that—

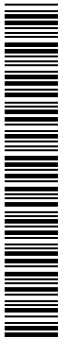
9 “(i) do not preclude a State transpor-
10 tation department or local transportation
11 agency, prior to compliance with section
12 102 of the National Environmental Policy
13 Act of 1969 (42 U.S.C. 4332), from—

14 “(I) issuing requests for pro-
15 posals;

16 “(II) proceeding with awards of
17 design-build contracts; or

18 “(III) issuing notices to proceed
19 with preliminary design work under
20 design-build contracts;

21 “(ii) require that the State transpor-
22 tation department or local transportation
23 agency receive concurrence from the Sec-
24 retary before carrying out an activity
25 under clause (i); and



1 “(iii) preclude the design-build con-
2 tractor from proceeding with final design
3 or construction of any permanent improve-
4 ment prior to completion of the process
5 under such section 102.”.

6 **Subtitle F—Finance**

7 **SEC. 1601. TRANSPORTATION INFRASTRUCTURE FINANCE**
8 **AND INNOVATION ACT AMENDMENTS.**

9 (a) DEFINITIONS.—Section 181 of title 23, United
10 States Code, is amended—

11 (1) in paragraph (3) by striking “category” and
12 “offered into the capital markets”;

13 (2) by striking paragraph (7) and redesignating
14 paragraphs (8) through (15) as paragraphs (7)
15 through (14), respectively;

16 (3) in paragraph (8) (as redesignated by para-
17 graph (2) of this subsection)—

18 (A) in subparagraph (B) by striking the
19 period at the end and inserting a semicolon;
20 and

21 (B) by striking subparagraph (D) and in-
22 serting the following:

23 “(D) a project that—

24 “(i) is a project—



1 “(I) for a public freight rail facil-
2 ity or a private facility providing pub-
3 lic benefit for highway users;

4 “(II) for an intermodal freight
5 transfer facility;

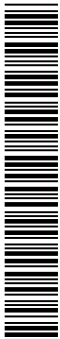
6 “(III) for a means of access to a
7 facility described in subclause (I) or
8 (II);

9 “(IV) for a service improvement
10 for a facility described in subclause
11 (I) or (II) (including a capital invest-
12 ment for an intelligent transportation
13 system); or

14 “(V) that comprises a series of
15 projects described in subclauses (I)
16 through (IV) with the common objec-
17 tive of improving the flow of goods;

18 “(ii) may involve the combining of pri-
19 vate and public sector funds, including in-
20 vestment of public funds in private sector
21 facility improvements; and

22 “(iii) if located within the boundaries
23 of a port terminal, includes only such sur-
24 face transportation infrastructure modi-
25 fications as are necessary to facilitate di-



1 rect intermodal interchange, transfer, and
2 access into and out of the port.”; and

3 (4) in paragraph (10) (as redesignated by para-
4 graph (2) of this subsection) by striking “bond” and
5 inserting “credit”.

6 (b) DETERMINATION OF ELIGIBILITY.—Section
7 182(a) of such title is amended—

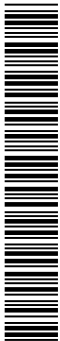
8 (1) by striking paragraphs (1) and (2) and in-
9 serting the following:

10 “(1) INCLUSION IN TRANSPORTATION PLANS
11 AND PROGRAMS.—The project shall satisfy the appli-
12 cable planning and programming requirements of
13 sections 134 and 135 at such time as an agreement
14 to make available a Federal credit instrument is en-
15 tered into under this subchapter.

16 “(2) APPLICATION.—A State, local government,
17 public authority, public-private partnership, or any
18 other legal entity undertaking the project and au-
19 thorized by the Secretary, shall submit a project ap-
20 plication to the Secretary.”;

21 (2) in paragraph (3)(A)(i) by striking
22 “\$100,000,000” and inserting “\$50,000,000”;

23 (3) in paragraph (3)(A)(ii) by striking “50”
24 and inserting “33 $\frac{1}{3}$ ”;



1 (4) in paragraph (3)(B) by striking
2 “\$30,000,000” and inserting “\$15,000,000”; and
3 (5) in paragraph (4)—

4 (A) by striking “Project financing” and in-
5 serting “The Federal credit instrument”; and

6 (B) by inserting before the period at the
7 end “that also secure the project obligations”.

8 (c) PROJECT SELECTION.—Section 182(b) of such
9 title is amended—

10 (1) in paragraph (1) by striking “criteria” the
11 second place it appears and inserting “require-
12 ments”; and

13 (2) in paragraph (2)(B) by inserting “, which
14 may be the Federal credit instrument,” after “obli-
15 gations”.

16 (d) SECURED LOANS.—

17 (1) AGREEMENTS.—Section 183(a)(1) of such
18 title is amended—

19 (A) in subparagraph (A) by inserting “of
20 any project selected under section 602” after
21 “costs”;

22 (B) by striking the semicolon at the end of
23 subparagraph (B) and all that follows through
24 “under section 182.” and inserting “of any
25 project selected under section 602; or”; and



1 (C) by adding at the end the following:

2 “(C) to refinance long-term project obliga-
3 tions or Federal credit instruments if such re-fi-
4 nancing provides additional funding capacity for
5 the completion, enhancement, or expansion of
6 any project that—

7 “(i) is selected under section 602; or

8 “(ii) otherwise meets the requirements
9 of section 602.”.

10 (2) INVESTMENT-GRADE RATING REQUIRE-
11 MENT.—Section 183(a)(4) of such title is
12 amended—

13 (A) by striking “The funding” and insert-
14 ing “The execution”; and

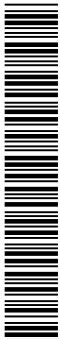
15 (B) by striking the first comma and all
16 that follows through “1 rating agency”.

17 (3) TERMS AND LIMITATIONS.—Section 183(b)
18 of such title is amended—

19 (A) in paragraph (2)—

20 (i) by inserting “the lesser of” after
21 “exceed”; and

22 (ii) by inserting “or, if the secured
23 loan does not receive an investment grade
24 rating, the amount of the senior project
25 obligations” after “costs”;



1 (B) in paragraph (3)(A)(i) by inserting
2 “that also secure the senior project obligations”
3 after “sources”; and

4 (C) in paragraph (4) by striking “market-
5 able”.

6 (4) REPAYMENT.—Section 183(c) of such title
7 is amended—

8 (A) by striking paragraph (3);

9 (B) by redesignating paragraphs (4) and
10 (5) as paragraphs (3) and (4), respectively;

11 (C) in paragraph (3)(A) (as redesignated
12 by subparagraph (B) of this paragraph) by
13 striking “during the 10 years”; and

14 (D) in subparagraph (3)(B)(ii) (as so re-
15 designated) by striking “loan” and all that fol-
16 lows and inserting “loan.”.

17 (e) LINES OF CREDIT.—

18 (1) TERMS AND LIMITATIONS.—Section 184(b)
19 of such title is amended—

20 (A) by striking paragraph (2) and insert-
21 ing the following:

22 “(2) MAXIMUM AMOUNTS.—The total amount
23 of the line of credit shall not exceed 33 percent of
24 the reasonably anticipated eligible project costs.”;



1 (B) in paragraph (3) by striking “, any
2 debt service reserve fund, and any other avail-
3 able reserve” and inserting “but not including
4 reasonably required financing reserves”;

5 (C) in paragraph (4)—

6 (i) by striking “marketable”;

7 (ii) by striking “on which” and insert-
8 ing “of execution of”; and

9 (iii) by striking “is obligated” and in-
10 sserting “agreement”;

11 (D) in paragraph (5)(A)(i) by inserting
12 “that also secure the senior project obligations”
13 after “sources”; and

14 (E) in paragraph (6) by striking “line of
15 credit” and inserting “full amount of the line of
16 credit, to the extent not drawn upon,”.

17 (2) REPAYMENT.—Section 184(c) of such title
18 is amended—

19 (A) in paragraph (2)—

20 (i) by striking “scheduled”;

21 (ii) by inserting “be scheduled to”
22 after “shall”; and

23 (iii) by striking “be fully repaid, with
24 interest,” and inserting “to conclude, with



1 full repayment of principal and interest,”;
2 and
3 (B) by striking paragraph (3).

4 (f) PROGRAM ADMINISTRATION.—Section 185 of
5 such title is amended to read as follows:

6 **“§ 185. Program administration**

7 “(a) REQUIREMENT.—The Secretary shall establish
8 a uniform system to service the Federal credit instruments
9 made available under this subchapter.

10 “(b) FEES.—

11 “(1) IN GENERAL.—The Secretary may collect
12 and spend fees, contingent upon authority being pro-
13 vided in appropriations Acts, at a level that is suffi-
14 cient to cover—

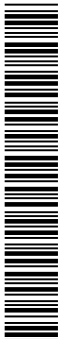
15 “(A) the costs of services of expert firms
16 retained pursuant to subsection (d); and

17 “(B) all or a portion of the costs to the
18 Federal Government of servicing the Federal
19 credit instruments.

20 “(c) SERVICER.—

21 “(1) IN GENERAL.—The Secretary may appoint
22 a financial entity to assist the Secretary in servicing
23 the Federal credit instruments.

24 “(2) DUTIES.—The servicer shall act as the
25 agent for the Secretary.



1 “(3) FEE.—The servicer shall receive a serv-
2 icing fee, subject to approval by the Secretary.

3 “(d) ASSISTANCE FROM EXPERT FIRMS.—The Sec-
4 retary may retain the services of expert firms, including
5 counsel, in the field of municipal and project finance to
6 assist in the underwriting and servicing of Federal credit
7 instruments.”.

8 (g) FUNDING.—Section 188 of such title is amended
9 to read as follows:

10 **“§ 188. Funding**

11 “(a) FUNDING.—

12 “(1) IN GENERAL.—There is authorized to be
13 appropriated from the Highway Trust Fund (other
14 than the Mass Transit Account) to carry out this
15 subchapter \$122,000,000 for each of fiscal years
16 2005 through 2009.

17 “(2) AVAILABILITY.—Amounts made available
18 to carry out this chapter shall remain available until
19 expended.

20 “(3) ADMINISTRATIVE COSTS.—From funds
21 made available to carry out this chapter, the Sec-
22 retary may use, for the administration of this sub-
23 chapter, not more than \$2,200,000 for each of fiscal
24 years 2005 through 2009.

25 “(b) CONTRACT AUTHORITY.—



1 “(1) IN GENERAL.—Notwithstanding any other
2 provision of law, approval by the Secretary of a Fed-
3 eral credit instrument that uses funds made avail-
4 able under this subchapter shall impose upon the
5 United States a contractual obligation to fund the
6 Federal credit investment.

7 “(2) AVAILABILITY.—Amounts authorized
8 under this section for a fiscal year shall be available
9 for obligation on October 1 of the fiscal year.”.

10 (h) DATES FOR SUBMISSION OF REPORTS.—Section
11 189 of such title is amended—

12 (1) by striking the section designation and
13 heading and inserting the following:

14 **“§ 189. Reports to Congress”;**

15 (2) by striking “Not later than 4 years after
16 the date of enactment of this subchapter,” and in-
17 serting “On June 1, 2006, and every 2 years there-
18 after,”; and

19 (3) by striking “subchapter” each place it ap-
20 pears and inserting “chapter (other than section
21 610)”.

22 (i) CLERICAL AMENDMENT.—The analysis for chap-
23 ter 1 of such title is amended by striking the item relating
24 to section 185 and inserting the following:

“185. Program administration.”.



1 **SEC. 1602. STATE INFRASTRUCTURE BANKS.**

2 (a) IN GENERAL.—Subchapter II of chapter 1 of title
3 23, United States Code, is amended by adding at the end
4 the following:

5 **“§ 190. State infrastructure bank program**

6 “(a) DEFINITIONS.—In this section, the following
7 definitions apply:

8 “(1) CAPITAL PROJECT.—The term ‘capital
9 project’ has the meaning such term has under sec-
10 tion 5302 of title 49.

11 “(2) OTHER FORMS OF CREDIT ASSISTANCE.—
12 The term ‘other forms of credit assistance’ includes
13 any use of funds in an infrastructure bank—

14 “(A) to provide credit enhancements;

15 “(B) to serve as a capital reserve for bond
16 or debt instrument financing;

17 “(C) to subsidize interest rates;

18 “(D) to insure or guarantee letters of cred-
19 it and credit instruments against credit risk of
20 loss;

21 “(E) to finance purchase and lease agree-
22 ments with respect to transit projects;

23 “(F) to provide bond or debt financing in-
24 strument security; and

25 “(G) to provide other forms of debt financ-
26 ing and methods of leveraging funds that are



1 approved by the Secretary and that relate to
2 the project with respect to which such assist-
3 ance is being provided.

4 “(3) STATE.—The term ‘State’ has the mean-
5 ing such term has under section 401.

6 “(4) CAPITALIZATION.—The term ‘capitaliza-
7 tion’ means the process used for depositing funds as
8 initial capital into a State infrastructure bank to es-
9 tablish the infrastructure bank.

10 “(5) COOPERATIVE AGREEMENT.—The term
11 ‘cooperative agreement’ means written consent be-
12 tween a State and the Secretary which sets forth the
13 manner in which the infrastructure bank established
14 by the State in accordance with this section will be
15 administered.

16 “(6) LOAN.—The term ‘loan’ means any form
17 of direct financial assistance from a State infra-
18 structure bank that is required to be repaid over a
19 period of time and that is provided to a project
20 sponsor for all or part of the costs of the project.

21 “(7) GUARANTEE.—The term ‘guarantee’
22 means a contract entered into by a State infrastruc-
23 ture bank in which the bank agrees to take responsi-
24 bility for all or a portion of a project sponsor’s fi-



1 nancial obligations for a project under specified con-
2 ditions.

3 “(8) INITIAL ASSISTANCE.—The term ‘initial
4 assistance’ means the first round of funds that are
5 loaned or used for credit enhancement by a State in-
6 frastructure bank for projects eligible for assistance
7 under this section.

8 “(9) LEVERAGE.—The term ‘leverage’ means a
9 financial structure used to increase funds in a State
10 infrastructure bank through the issuance of debt in-
11 struments.

12 “(10) LEVERAGED.—The term ‘leveraged’, as
13 used with respect to a State infrastructure bank,
14 means that the bank has total potential liabilities
15 that exceed the capital of the bank.

16 “(b) COOPERATIVE AGREEMENTS.—Subject to the
17 provisions of this section, the Secretary may enter into co-
18 operative agreements with States for the establishment of
19 State infrastructure banks for making loans and providing
20 other forms of credit assistance to public and private enti-
21 ties carrying out or proposing to carry out projects eligible
22 for assistance under this section.

23 “(c) INTERSTATE COMPACTS.—

24 “(1) IN GENERAL.—Congress grants consent to
25 2 or more of the States, entering into a cooperative



1 agreement under subsection (a) with the Secretary
2 for the establishment by such States of a multistate
3 infrastructure bank in accordance with this section,
4 to enter into an interstate compact establishing such
5 bank in accordance with this section.

6 “(2) RESERVATION OF RIGHTS.—The right to
7 alter, amend, or repeal interstate compacts entered
8 into under this subsection is expressly reserved.

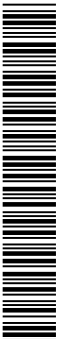
9 “(d) FUNDING.—

10 “(1) HIGHWAY ACCOUNT.—Subject to sub-
11 section (j), the Secretary may permit a State enter-
12 ing into a cooperative agreement under this section
13 to establish a State infrastructure bank to deposit
14 into the highway account of the bank not to
15 exceed—

16 “(A) 10 percent of the funds apportioned
17 to the State for each of fiscal years 2005
18 through 2009 under each of sections 104(b)(1),
19 104(b)(3), 104(b)(4), and 144; and

20 “(B) 10 percent of the funds allocated to
21 the State for each of such fiscal years under
22 section 105.

23 “(2) TRANSIT ACCOUNT.—Subject to subsection
24 (j), the Secretary may permit a State entering into
25 a cooperative agreement under this section to estab-



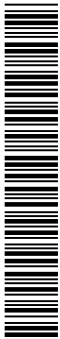
1 lish a State infrastructure bank, and any other re-
2 cipient of Federal assistance under section 5307,
3 5309, or 5311 of title 49, to deposit into the transit
4 account of the bank not to exceed 10 percent of the
5 funds made available to the State or other recipient
6 in each of fiscal years 2005 through 2009 for capital
7 projects under each of such sections.

8 “(3) RAIL ACCOUNT.—Subject to subsection (j),
9 the Secretary may permit a State entering into a co-
10 operative agreement under this section to establish
11 a State infrastructure bank, and any other recipient
12 of Federal assistance under subtitle V of title 49, to
13 deposit into the rail account of the bank funds made
14 available to the State or other recipient in each of
15 fiscal years 2005 through 2009 for capital projects
16 under such subtitle.

17 “(4) CAPITAL GRANTS.—

18 “(A) HIGHWAY ACCOUNT.—Federal funds
19 deposited into a highway account of a State in-
20 frastructure bank under paragraph (1) shall
21 constitute for purposes of this section a capital-
22 ization grant for the highway account of the
23 bank.

24 “(B) TRANSIT ACCOUNT.—Federal funds
25 deposited into a transit account of a State in-

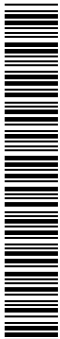


1 frastructure bank under paragraph (2) shall
2 constitute for purposes of this section a capital-
3 ization grant for the transit account of the
4 bank.

5 “(C) RAIL ACCOUNT.—Federal funds de-
6 posited into a rail account of a State infrastruc-
7 ture bank under paragraph 3 shall constitute
8 for purposes of this section a capitalization
9 grant for the rail account of the bank.

10 “(5) SPECIAL RULE FOR URBANIZED AREAS OF
11 OVER 200,000.—Funds in a State infrastructure bank
12 that are attributed to urbanized areas of a State
13 with urbanized populations of over 200,000 under
14 section 133(d)(3) may be used to provide assistance
15 with respect to a project only if the metropolitan
16 planning organization designated for such area con-
17 curs, in writing, with the provision of such assist-
18 ance.

19 “(6) DISCONTINUANCE OF FUNDING.—If the
20 Secretary determines that a State is not imple-
21 menting the State’s infrastructure bank in accord-
22 ance with a cooperative agreement entered into
23 under subsection (b), the Secretary may prohibit the
24 State from contributing additional Federal funds to
25 the bank.



1 “(e) FORMS OF ASSISTANCE FROM INFRASTRUC-
2 TURE BANKS.—An infrastructure bank established under
3 this section may make loans or provide other forms of
4 credit assistance to a public or private entity in an amount
5 equal to all or a part of the cost of carrying out a project
6 eligible for assistance under this section. The amount of
7 any loan or other form of credit assistance provided for
8 the project may be subordinated to any other debt financ-
9 ing for the project. Initial assistance provided with respect
10 to a project from Federal funds deposited into an infra-
11 structure bank under this section may not be made in the
12 form of a grant.

13 “(f) ELIGIBLE PROJECTS.—Subject to subsection (e),
14 funds in an infrastructure bank established under this sec-
15 tion may be used only to provide assistance for projects
16 eligible for assistance under this title and capital projects
17 defined in section 5302 of title 49, and any other projects
18 relating to surface transportation that the Secretary deter-
19 mines to be appropriate.

20 “(g) INFRASTRUCTURE BANK REQUIREMENTS.—In
21 order to establish an infrastructure bank under this sec-
22 tion, the State establishing the bank shall—

23 “(1) deposit in cash, at a minimum, into each
24 account of the bank from non-Federal sources an
25 amount equal to 25 percent of the amount of each



1 capitalization grant made to the State and deposited
2 into such account; except that, if the deposit is into
3 the highway account of the bank and the State has
4 a non-Federal share under section 120(b) that is
5 less than 25 percent, the percentage to be deposited
6 from non-Federal sources shall be the lower percent-
7 age of such grant;

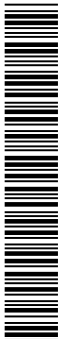
8 “(2) ensure that the bank maintains on a con-
9 tinuing basis an investment grade rating on its debt,
10 or has a sufficient level of bond or debt financing in-
11 strument insurance, to maintain the viability of the
12 bank;

13 “(3) ensure that investment income derived
14 from funds deposited to an account of the bank
15 are—

16 “(A) credited to the account;

17 “(B) available for use in providing loans
18 and other forms of credit assistance to projects
19 eligible for assistance from the account; and

20 “(C) invested in United States Treasury
21 securities, bank deposits, or such other financ-
22 ing instruments as the Secretary may approve
23 to earn interest to enhance the leveraging of
24 projects assisted by the bank;



1 “(4) ensure that any loan from the bank will
2 bear interest at or below market interest rates, as
3 determined by the State, to make the project that is
4 the subject of the loan feasible;

5 “(5) ensure that repayment of any loan from
6 the bank will commence not later than 5 years after
7 the project has been completed or, in the case of a
8 highway project, the facility has opened to traffic,
9 whichever is later;

10 “(6) ensure that the term for repaying any loan
11 will not exceed 30 years after the date of the first
12 payment on the loan; and

13 “(7) require the bank to make an annual report
14 to the Secretary on its status no later than Sep-
15 tember 30 of each year and such other reports as
16 the Secretary may require under guidelines issued to
17 carry out this section.

18 “(h) APPLICABILITY OF FEDERAL LAW.—

19 “(1) IN GENERAL.—The requirements of this
20 title and title 49 that would otherwise apply to funds
21 made available under this title or such title and
22 projects assisted with those funds shall apply to—

23 “(A) funds made available under this title
24 or such title and contributed to an infrastruc-
25 ture bank established under this section, includ-



1 ing the non-Federal contribution required under
2 subsection (g); and

3 “(B) projects assisted by the bank through
4 the use of the funds;

5 except to the extent that the Secretary determines
6 that any requirement of such title (other than sec-
7 tions 113 and 114 of this title and section 5333 of
8 title 49) is not consistent with the objectives of this
9 section.

10 “(2) REPAYMENTS.—The requirements of this
11 title and title 49 shall apply to repayments from
12 non-Federal sources to an infrastructure bank from
13 projects assisted by the bank. Such a repayment
14 shall be considered to be Federal funds.

15 “(i) UNITED STATES NOT OBLIGATED.—The deposit
16 of Federal funds into an infrastructure bank established
17 under this section shall not be construed as a commitment,
18 guarantee, or obligation on the part of the United States
19 to any third party, nor shall any third party have any right
20 against the United States for payment solely by virtue of
21 the contribution. Any security or debt-financing instru-
22 ment issued by the infrastructure bank shall expressly
23 state that the security or instrument does not constitute
24 a commitment, guarantee, or obligation of the United
25 States.



1 “(j) MANAGEMENT OF FEDERAL FUNDS.—Sections
2 3335 and 6503 of title 31 shall not apply to funds depos-
3 ited into an infrastructure bank under this section.

4 “(k) PROGRAM ADMINISTRATION.—For each of fiscal
5 years 2005 through 2009, a State may expend not to ex-
6 ceed 2 percent of the Federal funds contributed to an in-
7 frastructure bank established by the State under this sec-
8 tion to pay the reasonable costs of administering the
9 bank.”.

10 (b) PREPARATORY AMENDMENTS.—

11 (1) SECTION 181.—Section 181 of such title is
12 amended—

13 (A) by striking the section designator and
14 heading and inserting the following:

15 **“§ 181. Generally applicable provisions”;**

16 (B) by striking “In this subchapter” and
17 inserting the following:

18 “(a) DEFINITIONS.—In this chapter”;

19 (C) in paragraph (5) by striking “184”
20 and inserting “604”;

21 (D) in paragraph (11) (as redesignated by
22 section 1601(a) of this Act) by striking “183”
23 and inserting “603”; and

24 (E) by adding at the end the following:



1 “(b) TREATMENT OF CHAPTER.—For purposes of
2 this title, this chapter shall be treated as being part of
3 chapter 1.”.

4 (2) SECTION 182.—Section 182(b)(2)(A)(viii)
5 of such title is amended by inserting “and chapter
6 1” after “this chapter”.

7 (3) SECTION 183.—Section 183(a)(3) of such
8 title is amended by striking “182(b)(2)(B)” and in-
9 serting “602(b)(2)(B)”.

10 (4) SECTION 184.—Section 184 of such title is
11 amended—

12 (A) in subsection (a)(1) by striking “182”
13 and inserting “602”;

14 (B) in subsection (a)(3) by striking
15 “182(b)(2)(B)” and inserting “602(b)(2)(B)”;
16 and

17 (C) in subsection (b)(10) by striking
18 “183” and inserting “603”.

19 (5) REFERENCES IN SUBCHAPTER.—Sub-
20 chapter II of chapter 1 of such title is amended by
21 striking “this subchapter” each place it appears and
22 inserting “this chapter”.

23 (6) SUBCHAPTER HEADINGS.—Chapter 1 of
24 such title is further amended—



1 (A) by striking “SUBCHAPTER I—GEN-
2 ERAL PROVISIONS” preceding section 101;
3 and

4 (B) by striking “SUBCHAPTER II—IN-
5 FRASTRUCTURE FINANCE” preceding sec-
6 tion 181.

7 (c) CHAPTER 6.—Such title is further amended by
8 adding at the end the following:

9 **“CHAPTER 6—INFRASTRUCTURE FINANCE**

“Sec.

“601. Generally applicable provisions.

“602. Determination of eligibility and project selection.

“603. Secured loans.

“604. Lines of credit.

“605. Program administration.

“606. State and local permits.

“607. Regulations.

“608. Funding.

“609. Reports to Congress.

“610. State infrastructure bank program.”.

10 (d) MOVING AND REDESIGNATING.—Such title is fur-
11 ther amended—

12 (1) by redesignating sections 181 through 189
13 as sections 601 through 609, respectively;

14 (2) by moving such sections from chapter 1 to
15 chapter 6 (as added by subsection (c)); and

16 (3) by inserting such sections after the analysis
17 for chapter 6.

18 (e) ANALYSIS FOR CHAPTER 1 AND TABLE OF CHAP-
19 TERS.—



1 (1) ANALYSIS FOR CHAPTER 1.—The analysis
2 for chapter 1 of such title is amended—

3 (A) by striking the headings for sub-
4 chapters I and II; and

5 (B) by striking the items relating to sec-
6 tions 181 through 189.

7 (2) TABLE OF CHAPTERS.—The table of chap-
8 ters for such title is amended by inserting after the
9 item relating to chapter 5 the following:

“6. Infrastructure Finance 601.”.

10 **SEC. 1603. USE OF EXCESS FUNDS AND FUNDS FOR INAC-**
11 **TIVE PROJECTS.**

12 (a) DEFINITIONS.—In this section, the following defi-
13 nitions apply:

14 (1) ELIGIBLE FUNDS.—

15 (A) IN GENERAL.—The term “eligible
16 funds” means excess funds or inactive funds for
17 a specific transportation project or activity that
18 were—

19 (i) allocated before fiscal year 1991;
20 and

21 (ii) designated in a public law, or a
22 report accompanying a public law, for allo-
23 cation for the specific surface transpor-
24 tation project or activity.



1 (B) INCLUSION.—The term “eligible
2 funds” includes funds described in subpara-
3 graph (A) that were allocated and designated
4 for a demonstration project.

5 (2) EXCESS FUNDS.—The term “excess funds”
6 means—

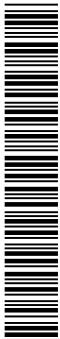
7 (A) funds obligated for a specific transpor-
8 tation project or activity that remain available
9 for the project or activity after the project or
10 activity has been completed or canceled; or

11 (B) an unobligated balance of funds allo-
12 cated for a transportation project or activity
13 that the State in which the project or activity
14 was to be carried out certifies are no longer
15 needed for the project or activity.

16 (3) INACTIVE FUNDS.—The term “inactive
17 funds” means—

18 (A) an obligated balance of Federal funds
19 for an eligible transportation project or activity
20 against which no expenditures have been
21 charged during any 1-year period beginning
22 after the date of obligation of the funds; and

23 (B) funds that are available to carry out a
24 transportation project or activity in a State,
25 but, as certified by the State, are unlikely to be



1 advanced for the project or activity during the
2 1-year period beginning on the date of certifi-
3 cation.

4 (b) AVAILABILITY FOR STP PURPOSES.—Eligible
5 funds shall be—

6 (1) made available in accordance with this sec-
7 tion to the State that originally received the funds;
8 and

9 (2) available for obligation for any eligible pur-
10 pose under section 133 of title 23, United States
11 Code.

12 (c) RETENTION FOR ORIGINAL PURPOSE.—

13 (1) IN GENERAL.—The Secretary may deter-
14 mine that eligible funds identified as inactive funds
15 shall remain available for the purpose for which the
16 funds were initially made available if the applicable
17 State certifies that the funds are necessary for that
18 initial purpose.

19 (2) REPORT.—A certification provided by a
20 State under paragraph (1) shall include a report on
21 the status of, and an estimated completion date for,
22 the project that is the subject of the certification.

23 (d) AUTHORITY TO OBLIGATE.—Notwithstanding the
24 original source or period of availability of eligible funds,
25 the Secretary may, on the request by a State—



1 (1) obligate the funds for any eligible purpose
2 under section 133 of title 23, United States Code;
3 or

4 (2)(A) deobligate the funds; and

5 (B) reobligate the funds for any eligible purpose
6 under that section.

7 (e) APPLICABILITY.—

8 (1) IN GENERAL.—Subject to paragraph (2),
9 this section applies only to eligible funds.

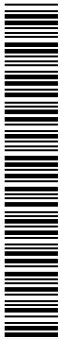
10 (2) DISCRETIONARY ALLOCATIONS; SECTION
11 125 PROJECTS.—This section does not apply to
12 funds that are—

13 (A) allocated at the discretion of the Sec-
14 retary and for which the Secretary has the au-
15 thority to withdraw the allocation for use on
16 other projects; or

17 (B) made available to carry out projects
18 under section 125 of title 23, United States
19 Code.

20 (f) PERIOD OF AVAILABILITY; TITLE 23 REQUIRE-
21 MENTS.—

22 (1) IN GENERAL.—Notwithstanding the original
23 source or period of availability of eligible funds obli-
24 gated, or deobligated and reobligated, under sub-
25 section (d), the eligible funds—



1 (A) shall remain available for obligation for
2 a period of 3 fiscal years after the fiscal year
3 in which this Act is enacted; and

4 (B) except as provided in paragraph (2),
5 shall be subject to the requirements of title 23,
6 United States Code, that apply to section 133
7 of that title, including provisions relating to
8 Federal share.

9 (2) EXCEPTION.—With respect to eligible funds
10 described in paragraph (1)—

11 (A) section 133(d) of title 23, United
12 States Code, shall not apply; and

13 (B) the period of availability of the eligible
14 funds shall be determined in accordance with
15 this section.

16 (g) REPORT.—Not later than 1 year after the date
17 of enactment of this Act, and annually thereafter, the Sec-
18 retary shall submit to the Committee on Environment and
19 Public Works of the Senate and the Committee on Trans-
20 portation and Infrastructure of the House of Representa-
21 tives a report describing any action taken by the Secretary
22 under this section.

23 (h) SENSE OF CONGRESS REGARDING USE OF ELIGI-
24 BLE FUNDS.—It is the sense of Congress that eligible
25 funds made available under this Act or title 23, United



1 States Code, should be available for obligation for trans-
2 portation projects and activities in the same geographic
3 region for which the eligible funds were initially made
4 available.

5 **SEC. 1604. TOLLING.**

6 (a) VALUE PRICING PILOT PROGRAM.—Section
7 1012(b)(8) of the Intermodal Surface Transportation Ef-
8 ficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938)
9 is amended—

10 (1) by redesignating subparagraphs (A) and
11 (B) as subparagraphs (C) and (D), respectively; and
12 (2) by inserting before subparagraph (C) (as re-
13 designated by paragraph (1)) the following:

14 “(A) IN GENERAL.—There are authorized
15 to be appropriated to the Secretary from the
16 Highway Trust Fund (other than the Mass
17 Transit Account) to carry out this subsection—

18 “(i) for fiscal year 2005, \$11,000,000;

19 and

20 “(ii) for each of fiscal years 2006
21 through 2009, \$12,000,000.

22 “(B) SET-ASIDE FOR PROJECTS NOT IN-
23 VOLVING HIGHWAY TOLLS.—Of the amounts
24 made available to carry out this subsection,
25 \$3,000,000 for each of fiscal years 2006



1 through 2009 shall be available only for conges-
2 tion pricing pilot projects that do not involve
3 highway tolls.”.

4 (b) EXPRESS LANES DEMONSTRATION PROGRAM.—

5 (1) DEFINITIONS.—In this subsection, the fol-
6 lowing definitions apply:

7 (A) ELIGIBLE TOLL FACILITY.—The term
8 “eligible toll facility” includes—

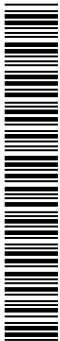
9 (i) a facility in existence on the date
10 of enactment of this Act that collects tolls;

11 (ii) a facility in existence on the date
12 of enactment of this Act that serves high
13 occupancy vehicles;

14 (iii) a facility modified or constructed
15 after the date of enactment of this Act to
16 create additional tolled lane capacity (in-
17 cluding a facility constructed by a private
18 entity or using private funds); and

19 (iv) in the case of a new lane added
20 to a previously non-tolled facility, only the
21 new lane.

22 (B) NONATTAINMENT AREA.—The term
23 “nonattainment area” has the meaning given
24 that term in section 171 of the Clean Air Act
25 (42 U.S.C. 7501).



1 (2) DEMONSTRATION PROGRAM.—Notwith-
2 standing sections 129 and 301 of title 23, United
3 States Code, the Secretary shall carry out 15 dem-
4 onstration projects during the period of fiscal years
5 2005 through 2009 to permit States, public authori-
6 ties, or a public or private entities designated by
7 States, to collect a toll from motor vehicles at an eli-
8 gible toll facility for any highway, bridge, or tunnel,
9 including facilities on the Interstate System—

10 (A) to manage high levels of congestion;

11 (B) to reduce emissions in a nonattain-
12 ment area or maintenance area; or

13 (C) to finance the expansion of a highway,
14 for the purpose of reducing traffic congestion,
15 by constructing 1 or more additional lanes (in-
16 cluding bridge, tunnel, support, and other
17 structures necessary for that construction) on
18 the Interstate System.

19 (3) LIMITATION ON USE OF REVENUES.—

20 (A) USE.—

21 (i) IN GENERAL.—Toll revenues re-
22 ceived under paragraph (2) shall be used
23 by a State, public authority, or private en-
24 tity designated by a State, for—

25 (I) debt service;



1 (II) a reasonable return on in-
2 vestment of any private financing;

3 (III) the costs necessary for
4 proper operation and maintenance of
5 any facilities under paragraph (2) (in-
6 cluding reconstruction, resurfacing,
7 restoration, and rehabilitation); or

8 (IV) if the State, public author-
9 ity, or private entity annually certifies
10 that the tolled facility is being ade-
11 quately operated and maintained, any
12 other purpose relating to a highway or
13 transit project carried out under title
14 23 or 49, United States Code.

15 (B) REQUIREMENTS.—

16 (i) VARIABLE PRICE REQUIREMENT.—
17 A facility that charges tolls under this sub-
18 section may establish a toll that varies in
19 price according to time of day or level of
20 traffic, as appropriate to manage conges-
21 tion or improve air quality.

22 (ii) HOV VARIABLE PRICING RE-
23 QUIREMENT.—The Secretary shall require,
24 for each high occupancy vehicle facility
25 that charges tolls under this subsection,



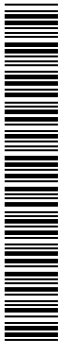
1 that the tolls vary in price according to
2 time of day or level of traffic, as appro-
3 priate to manage congestion or improve air
4 quality.

5 (iii) HOV PASSENGER REQUIRE-
6 MENTS.—Pursuant to section 166 of title
7 23, United States Code, a State may per-
8 mit motor vehicles with fewer than 2 occu-
9 pants to operate in high occupancy vehicle
10 lanes as part of a variable toll pricing pro-
11 gram established under this subsection.

12 (C) AGREEMENT.—

13 (i) IN GENERAL.—Before the Sec-
14 retary may permit a facility to charge tolls
15 under this subsection, the Secretary and
16 the applicable State, public authority, or
17 private entity designated by a State shall
18 enter into an agreement for each facility
19 incorporating the conditions described in
20 subparagraphs (A) and (B).

21 (ii) TERMINATION.—An agreement
22 under clause (i) shall terminate with re-
23 spect to a facility upon the decision of the
24 State, public authority, or private entity
25 designated by a State to discontinue the



1 variable tolling program under this sub-
2 section for the facility.

3 (iii) DEBT.—If there is any debt out-
4 standing on a facility at the time at which
5 the decision is made to discontinue the
6 program under this subsection with respect
7 to the facility, the facility may continue to
8 charge tolls in accordance with the terms
9 of the agreement until such time as the
10 debt is retired.

11 (D) LIMITATION ON FEDERAL SHARE.—
12 The Federal share of the cost of a project on
13 a facility tolled under this subsection, including
14 a project to install the toll collection facility
15 shall be a percentage, not to exceed 80 percent,
16 determined by the applicable State.

17 (4) ELIGIBILITY.—To be eligible to participate
18 in the program under this subsection, a State, public
19 authority, or private entity designated by a State
20 shall provide to the Secretary—

21 (A) a description of the congestion or air
22 quality problems sought to be addressed under
23 the program;

24 (B) a description of—



1 (i) the goals sought to be achieved
2 under the program; and

3 (ii) the performance measures that
4 would be used to gauge the success made
5 toward reaching those goals; and

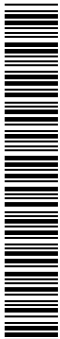
6 (C) such other information as the Sec-
7 retary may require.

8 (5) AUTOMATION.—Fees collected from motor-
9 ists using an express lane shall be collected only
10 through the use of noncash electronic technology
11 that optimizes the free flow of traffic on the tolled
12 facility.

13 (6) INTEROPERABILITY.—

14 (A) IN GENERAL.—Not later than 180
15 days after the date of enactment of this Act,
16 the Secretary shall promulgate a final rule
17 specifying requirements, standards, or perform-
18 ance specifications for automated toll collection
19 systems implemented under this section.

20 (B) DEVELOPMENT.—In developing that
21 rule, which shall be designed to maximize the
22 interoperability of electronic collection systems,
23 the Secretary shall, to the maximum extent
24 practicable—



1 (i) seek to accelerate progress toward
2 the national goal of achieving a nationwide
3 interoperable electronic toll collection sys-
4 tem;

5 (ii) take into account the use of
6 noncash electronic technology currently de-
7 ployed within an appropriate geographical
8 area of travel and the noncash electronic
9 technology likely to be in use within the
10 next 5 years; and

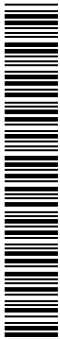
11 (iii) seek to minimize additional costs
12 and maximize convenience to users of toll
13 facility and to the toll facility owner or op-
14 erator.

15 (7) REPORTING.—

16 (A) IN GENERAL.—The Secretary, in co-
17 operation with State and local agencies and
18 other program participants and with oppor-
19 tunity for public comment, shall—

20 (i) develop and publish performance
21 goals for each express lane project;

22 (ii) establish a program for regular
23 monitoring and reporting on the achieve-
24 ment of performance goals, including—

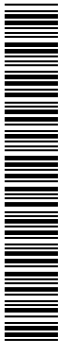


- 1 (I) effects on travel, traffic, and
2 air quality;
3 (II) distribution of benefits and
4 burdens;
5 (III) use of alternative transpor-
6 tation modes; and
7 (IV) use of revenues to meet
8 transportation or impact mitigation
9 needs.

10 (B) REPORTS TO CONGRESS.—The Sec-
11 retary shall submit to the Committee on Envi-
12 ronment and Public Works of the Senate and
13 the Committee on Transportation and Infra-
14 structure of the House of Representatives—

15 (i) not later than 1 year after the date
16 of enactment of this Act, and annually
17 thereafter, a report that describes in detail
18 the uses of funds under this subsection in
19 accordance with paragraph (8)(D); and

20 (ii) not later than 3 years after the
21 date of enactment of this Act, and every 3
22 years thereafter, a report that describes
23 any success of the program under this sub-
24 section in meeting congestion reduction



1 and other performance goals established
2 for express lane programs.

3 (c) INTERSTATE SYSTEM CONSTRUCTION TOLL
4 PILOT PROGRAM.—

5 (1) ESTABLISHMENT.—The Secretary shall es-
6 tablish and implement an Interstate System con-
7 struction toll pilot program under which the Sec-
8 retary, notwithstanding sections 129 and 301 of title
9 23, United States Code, may permit a State or an
10 interstate compact of States to collect tolls on a
11 highway, bridge, or tunnel on the Interstate System
12 for the purpose of constructing Interstate highways.

13 (2) LIMITATION ON NUMBER OF FACILITIES.—
14 The Secretary may permit the collection of tolls
15 under this section on 3 facilities on the Interstate
16 System.

17 (3) ELIGIBILITY.—To be eligible to participate
18 in the pilot program, a State shall submit to the
19 Secretary an application that contains, at a min-
20 imum, the following:

21 (A) An identification of the facility on the
22 Interstate System proposed to be a toll facility.

23 (B) In the case of a facility that affects a
24 metropolitan area, an assurance that the metro-
25 politan planning organization designated under



1 section 134 or 135 for the area has been con-
2 sulted concerning the placement and amount of
3 tolls on the facility.

4 (C) An analysis demonstrating that financ-
5 ing the construction of the facility with the col-
6 lection of tolls under the pilot program is the
7 most efficient and economical way to advance
8 the project.

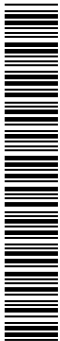
9 (D) A facility management plan that
10 includes—

11 (i) a plan for implementing the impo-
12 sition of tolls on the facility;

13 (ii) a schedule and finance plan for
14 the construction of the facility using toll
15 revenues;

16 (iii) a description of the public trans-
17 portation agency that will be responsible
18 for implementation and administration of
19 the pilot program;

20 (iv) a description of whether consider-
21 ation will be given to privatizing the main-
22 tenance and operational aspects of the fa-
23 cility, while retaining legal and administra-
24 tive control of the portion of the Interstate
25 route; and



1 (v) such other information as the Sec-
2 retary may require.

3 (4) SELECTION CRITERIA.—The Secretary may
4 approve the application of a State under paragraph
5 (3) only if the Secretary determines that—

6 (A) the State's analysis under paragraph
7 (3)(C) is reasonable;

8 (B) the State plan for implementing tolls
9 on the facility takes into account the interests
10 of local, regional, and interstate travelers;

11 (C) the State plan for construction of the
12 facility using toll revenues is reasonable;

13 (D) the State will develop, manage, and
14 maintain a system that will automatically col-
15 lect the tolls; and

16 (E) the State has given preference to the
17 use of a public toll agency with demonstrated
18 capability to build, operate, and maintain a toll
19 expressway system meeting criteria for the
20 Interstate System.

21 (5) PROHIBITION ON NONCOMPETE AGREE-
22 MENTS.—Before the Secretary may permit a State
23 to participate in the pilot program, the State must
24 enter into an agreement with the Secretary that pro-
25 vides that the State will not enter into an agreement



1 with a private person under which the State is pre-
2 vented from improving or expanding the capacity of
3 public roads adjacent to the toll facility to address
4 conditions resulting from traffic diverted to such
5 roads from the toll facility, including—

6 (A) excessive congestion;

7 (B) pavement wear; and

8 (C) an increased incidence of traffic acci-
9 dents, injuries, or fatalities.

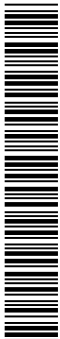
10 (6) LIMITATIONS ON USE OF REVENUES; AU-
11 DITS.—Before the Secretary may permit a State to
12 participate in the pilot program, the State must
13 enter into an agreement with the Secretary that pro-
14 vides that—

15 (A) all toll revenues received from oper-
16 ation of the toll facility will be used only for—

17 (i) debt service;

18 (ii) reasonable return on investment
19 of any private person financing the project;
20 and

21 (iii) any costs necessary for the im-
22 provement of and the proper operation and
23 maintenance of the toll facility, including
24 reconstruction, resurfacing, restoration,
25 and rehabilitation of the toll facility; and



1 (B) regular audits will be conducted to en-
2 sure compliance with subparagraph (A) and the
3 results of such audits will be transmitted to the
4 Secretary.

5 (7) LIMITATION ON USE OF INTERSTATE MAIN-
6 TENANCE FUNDS.—During the term of the pilot pro-
7 gram, funds apportioned for Interstate maintenance
8 under section 104(b)(4) of title 23, United States
9 Code, may not be used on a facility for which tolls
10 are being collected under the program.

11 (8) PROGRAM TERM.—The Secretary may ap-
12 prove an application of a State for permission to col-
13 lect a toll under this section only if the application
14 is received by the Secretary before the last day of
15 the 10-year period beginning on the date of enact-
16 ment of this Act.

17 (9) INTERSTATE SYSTEM DEFINED.—In this
18 section, the term “Interstate System” has the mean-
19 ing such term has under section 101 of title 23,
20 United States Code.

21 **Subtitle G—High Priority Projects**

22 **SEC. 1701. HIGH PRIORITY PROJECTS PROGRAM.**

23 (a) AUTHORIZATION OF HIGH PRIORITY
24 PROJECTS.—Section 117(a) of title 23, United States
25 Code, is amended to read as follows:



1 “(a) AUTHORIZATION OF HIGH PRIORITY
2 PROJECTS.—

3 “(1) IN GENERAL.—The Secretary is authorized
4 to carry out high priority projects with funds made
5 available to carry out the high priority projects pro-
6 gram under this section.

7 “(2) AVAILABILITY OF FUNDS.—

8 “(A) FOR TEA21.—Of amounts made avail-
9 able to carry out this section for fiscal years
10 1998 through 2003, the Secretary, subject to
11 subsection (b), shall make available to carry out
12 each project described in section 1602 of the
13 Transportation Equity Act for the 21st Century
14 the amount listed for such project in such sec-
15 tion.

16 “(B) FOR SAFETEA—LU.—Of amounts
17 made available to carry out this section for fis-
18 cal years 2005 through 2009, the Secretary,
19 subject to subsection (b), shall make available
20 to carry out each project described in section
21 1702 of the SAFETEA—LU the amount listed
22 for such project in such section.

23 “(3) AVAILABILITY OF UNALLOCATED
24 FUNDS.—Any amounts made available to carry out
25 such program that are not allocated for projects de-



1 scribed in such section shall be available to the Sec-
2 retary, subject to subsection (b), to carry out such
3 other high priority projects as the Secretary deter-
4 mines appropriate.”.

5 (b) ALLOCATION PERCENTAGES.—Section 117(b) of
6 such title is amended to read as follows:

7 “(b) FOR TEA21.—For each project to be carried
8 out with funds made available to carry out the high pri-
9 ority projects program under this section for fiscal years
10 1998 through 2003—

11 “(1) 11 percent of such amount shall be avail-
12 able for obligation beginning in fiscal year 1998;

13 “(2) 15 percent of such amount shall be avail-
14 able for obligation beginning in fiscal year 1999;

15 “(3) 18 percent of such amount shall be avail-
16 able for obligation beginning in fiscal year 2000;

17 “(4) 18 percent of such amount shall be avail-
18 able for obligation beginning in fiscal year 2001;

19 “(5) 19 percent of such amount shall be avail-
20 able for obligation beginning in fiscal year 2002; and

21 “(6) 19 percent of such amount shall be avail-
22 able for obligation beginning in fiscal year 2003.

23 “(c) FOR SAFETEA-LU.—For each project to be
24 carried out with funds made available to carry out the



1 high priority projects program under this section for fiscal
2 years 2005 through 2009—

3 “(1) 20 percent of such amount shall be avail-
4 able for obligation beginning in fiscal year 2005;

5 “(2) 20 percent of such amount shall be avail-
6 able for obligation beginning in fiscal year 2006;

7 “(3) 20 percent of such amount shall be avail-
8 able for obligation beginning in fiscal year 2007;

9 “(4) 20 percent of such amount shall be avail-
10 able for obligation beginning in fiscal year 2008; and

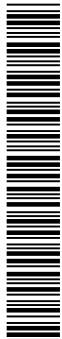
11 “(5) 20 percent of such amount shall be avail-
12 able for obligation beginning in fiscal year 2009.”.

13 (c) ADVANCE CONSTRUCTION.—Section 117(e) of
14 such title is amended—

15 (1) in paragraph (1) by inserting after “21st
16 Century” the following: “or section 1701 of the
17 SAFETEA-LU , as the case may be,”; and

18 (2) by striking “section 1602 of the Transpor-
19 tation Equity Act for the 21st Century.” and insert-
20 ing “such section 1602 or 1702, as the case may
21 be.”

22 (d) AVAILABILITY OF OBLIGATION LIMITATION.—
23 Section 117(g) of such title is amended by inserting after
24 “21st Century” the following: “or section 1102(g) of the
25 SAFETEA-LU, as the case may be”.



1 (e) FEDERAL-STATE RELATIONSHIP.—Section
2 145(b) of such title is amended—

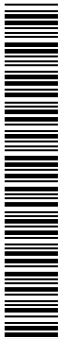
3 (1) by inserting after “described in” the fol-
4 lowing: “section 1702 of the SAFETEA-LU,”;

5 (2) by inserting after “for such projects by” the
6 following: “section 1101(a)(16) of the SAFETEA-
7 LU,”; and

8 (3) by striking “117 of title 23, United States
9 Code,” and inserting “section 117 of this title,”.

10 **SEC. 1702. PROJECT AUTHORIZATIONS.**

11 Subject to section 117 of title 23, United States
12 Code, the amount listed for each high priority project in
13 the following table shall be available (from amounts made
14 available by section 1101(a)(16) of this Act) for fiscal
15 years 2005 through 2009 to carry out each such project:



1 **SEC. 1703. TECHNICAL AMENDMENTS TO TRANSPORTATION**
2 **PROJECTS.**

3 (a) TEA-21.—The table contained in section 1602
4 of the Transportation Equity Act for the 21st Century
5 (112 Stat. 257) is amended—

6 (1) in item number 35 by inserting “and for
7 other related purposes” after “Yard”;

8 (2) in item number 78 by striking “Third” and
9 all that follows through “Bridge” and inserting
10 “Bayview Transportation Improvements Project”;

11 (3) in item number 312 by inserting “through
12 construction” after “engineering”;

13 (4) in item number 566 by striking “Prunedale
14 Bypass” and inserting “improvements to
15 Prunedale”;

16 (5) in item number 732 by striking “reviews
17 and other preliminary work” and inserting “reviews,
18 other preliminary work, and transitional construc-
19 tion”;

20 (6) in item number 744 by striking “Prelimi-
21 nary” and all that follows through “Fitchburg” and
22 inserting “Design, construction or reconstruction,
23 and right of way acquisition for roadway improve-
24 ments along the Route 12 corridor in Leominster
25 and Fitchburg to enhance access from Route 2 to
26 North Leominster and downtown Fitchburg”;



1 (7) in item number 800 by striking “Fairview
2 Township” and inserting “or other projects selected
3 by the York County, Pennsylvania MPO”;

4 (8) in item number 820 by striking “Conduct”
5 and all that follows through “interchange” and in-
6 serting “Conduct a transportation needs study and
7 make improvements to I-75 interchanges in the
8 Grayling area”;

9 (9) in item number 863, by adding at the end
10 the following: “, including the Cuyahoga-Woodland
11 Avenue Bridge”;

12 (10) in item number 897 by striking “Road up-
13 grade” and all that follows through “Hills” and in-
14 serting “Engineering and construction of a new ac-
15 cess road to a development near Interstate Route 57
16 and 167th Street in Country Club Hills”;

17 (11) in item 1096 by striking “Construct” and
18 all that follows through “Independence” and insert-
19 ing “Construction and improvements in
20 Reminderville, Ohio (43 percent); streetscaping, bi-
21 cycle trails, and related improvements to the I-90—
22 SR 615 Interchange in Mentor, Ohio (20 percent);
23 planning and construction of a bicycle trail adjacent
24 to such Interchange (14 percent); Eastlake Stadium
25 transit intermodal facility (16 percent); and pur-



1 chase of right-of-way for transportation enhance-
2 ment activities in Bainbridge Township, Ohio (7 per-
3 cent)”;

4 (12) in item number 1121 by striking “Con-
5 struct” and all that follows through “Douglaston
6 Parkway” and inserting “Provide landscaping along
7 both sides of the Grand Central Parkway from
8 188th Street to 172nd Street”;

9 (13) in item number 1225 by striking “Con-
10 struct SR 9 bypass” and inserting “Study, design,
11 and construct transportation solutions for SR 9 cor-
12 ridor”;

13 (14) in item number 1349 by inserting “, and
14 improvements to streets and roads providing access
15 to,” after “along”;

16 (15) in item number 1375 by striking “Prelimi-
17 nary” and all that follows through “Emmet County”
18 and inserting “Petoskey area transportation needs
19 study and trunkline preservation and safety in the
20 Petoskey area”;

21 (16) in item number 1392 by striking “Con-
22 struct” and all that follows through “multimodal
23 center” and inserting “Improve the ramp configura-
24 tion at the I-476 PA Turnpike Landsdale Inter-
25 change”;



1 (17) in item number 1447 by striking “Extend”
2 and all that follows through “Valparaiso” and in-
3 serting “Design and construction of interchange at
4 I-65 and 109th Avenue, Crown Point”; and

5 (18) in item number 1474 by adding at the end
6 the following: “, widen Cuyahoga SR87, and
7 \$4,000,000 of the amount authorized to construct
8 grading separation at Front Street, Berea”.

9 (b) ISTEA.—Item number 32 in the table contained
10 in section 1106(a)(2) of the Intermodal Surface Transpor-
11 tation Efficiency Act of 1991 (105 Stat. 2038) is amended
12 by striking “Extension of 34th Street from IL Rt.15 to
13 County Road 10” and inserting “Extension and improve-
14 ments of 34th Street”.

15 **Subtitle H—Environment**

16 **SEC. 1801. CONSTRUCTION OF FERRY BOATS AND FERRY** 17 **TERMINAL FACILITIES.**

18 (a) IN GENERAL.—Section 147 of title 23, United
19 States Code, is amended to read as follows:

20 **“§ 147. Construction of ferry boats and ferry terminal** 21 **facilities**

22 “(a) IN GENERAL.—The Secretary shall carry out a
23 program for construction of ferry boats and ferry terminal
24 facilities in accordance with section 129(c).



1 “(b) FEDERAL SHARE.—The Federal share of the
2 cost of construction of ferry boats, ferry terminals, and
3 ferry maintenance facilities under this section shall be 80
4 percent.

5 “(c) ALLOCATION OF FUNDS.—The Secretary shall
6 give priority in the allocation of funds under this section
7 to those ferry systems, and public entities responsible for
8 developing ferries, that—

9 “(1) provide critical access to areas that are not
10 well-served by other modes of surface transportation;

11 “(2) carry the greatest number of passengers
12 and vehicles; or

13 “(3) carry the greatest number of passengers in
14 passenger-only service.

15 “(d) SET-ASIDE FOR PROJECTS ON NHS.—

16 “(1) IN GENERAL.—\$20,000,000 of the amount
17 made available to carry out this section for each of
18 fiscal years 2005 through 2009 shall be obligated for
19 the construction or refurbishment of ferry boats and
20 ferry terminal facilities and approaches to such fa-
21 cilities within marine highway systems that are part
22 of the National Highway System.

23 “(2) ALASKA.—\$10,000,000 of the
24 \$20,000,000 for a fiscal year made available under



1 paragraph (1) shall be made available to the State
2 of Alaska.

3 “(3) NEW JERSEY.—\$5,000,000 of the
4 \$20,000,000 for a fiscal year made available under
5 paragraph (1) shall be made available to the State
6 of New Jersey.

7 “(4) WASHINGTON.—\$5,000,000 of the
8 \$20,000,000 for a fiscal year made available under
9 paragraph (1) shall be made available to the State
10 of Washington.

11 “(e) PERIOD OF AVAILABILITY.—Notwithstanding
12 section 118(b), funds made available to carry out this sec-
13 tion shall remain available until expended.

14 “(f) APPLICABILITY.—All provisions of this chapter
15 that are applicable to the National Highway System, other
16 than provisions relating to apportionment formula and
17 Federal share, shall apply to funds made available to carry
18 out this section, except as determined by the Secretary
19 to be inconsistent with this section.”.

20 (b) CLERICAL AMENDMENT.—The analysis for such
21 subchapter is amended by striking the item relating to sec-
22 tion 147 and inserting the following:

“147. Construction of ferry boats and ferry terminal facilities.”.

23 (c) CONFORMING REPEAL.—Section 1064 of the
24 Intermodal Surface Transportation Efficiency Act of 1991
25 (105 Stat. 2005) is repealed.



1 (d) AUTHORIZATION OF APPROPRIATIONS.—In addi-
2 tion to amounts made available to carry out section 147
3 of title 23, United States Code, by section 1101 of this
4 Act, there are authorized to be appropriated such sums
5 as may be necessary to carry out such section 147 for fis-
6 cal year 2006 and each fiscal year thereafter. Such funds
7 shall remain available until expended.

8 (e) NATIONAL FERRY DATABASE.—

9 (1) ESTABLISHMENT.—The Secretary, acting
10 through the Bureau of Transportation Statistics,
11 shall establish and maintain a national ferry data-
12 base.

13 (2) CONTENTS.—The database shall contain
14 current information regarding ferry systems, includ-
15 ing information regarding routes, vessels, passengers
16 and vehicles carried, funding sources and such other
17 information as the Secretary considers useful.

18 (3) UPDATE REPORT.—Using information col-
19 lected through the database, the Secretary shall pe-
20 riodically modify as appropriate the report submitted
21 under section 1207(c) of the Transportation Equity
22 Act for the 21st Century (23 U.S.C. 129 note; 112
23 Stat. 185–186).

24 (4) REQUIREMENTS.—The Secretary shall—



1 (A) compile the database not later than 1
2 year after the date of enactment of this Act and
3 update the database every 2 years thereafter;

4 (B) ensure that the database is easily ac-
5 cessible to the public; and

6 (C) make available, from the amounts
7 made available for the Bureau of Transpor-
8 tation Statistics by section 5101 of this Act,
9 not more than \$500,000 for each of fiscal years
10 2006 through 2009 to establish and maintain
11 the database.

12 (f) TERRITORY FERRIES.—Section 129(c)(5) of title
13 23, United States Code, is amended by striking “the Com-
14 monwealth of Puerto Rico” each place it appears and in-
15 serting “any territory of the United States”.

16 **SEC. 1802. NATIONAL SCENIC BYWAYS PROGRAM.**

17 (a) IN GENERAL.—Section 162(a) of title 23, United
18 States Code, is amended—

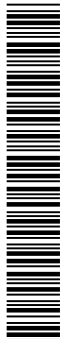
19 (1) in paragraph (1) by striking “the roads as”
20 and all that follows and inserting “the roads as—

21 “(A) National Scenic Byways;

22 “(B) All-American Roads; or

23 “(C) America’s Byways.”; and

24 (2) by striking paragraph (3) and inserting the
25 following:



1 “(3) NOMINATION.—

2 “(A) IN GENERAL.—To be considered for a
3 designation, a road must be nominated by a
4 State, an Indian tribe, or a Federal land man-
5 agement agency and must first be designated as
6 a State scenic byway, an Indian tribe scenic
7 byway, or, in the case of a road on Federal
8 land, as a Federal land management agency
9 byway.

10 “(B) NOMINATION BY INDIAN TRIBES.—

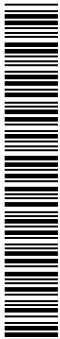
11 An Indian tribe may nominate a road as a Na-
12 tional Scenic Byway under subparagraph (A)
13 only if a Federal land management agency
14 (other than the Bureau of Indian Affairs), a
15 State, or a political subdivision of a State does
16 not have—

17 “(i) jurisdiction over the road; or

18 “(ii) responsibility for managing the
19 road.

20 “(C) SAFETY.—An Indian tribe shall
21 maintain the safety and quality of roads nomi-
22 nated by the Indian tribe under subparagraph
23 (A).

24 “(4) RECIPROCAL NOTIFICATION.—States, In-
25 dian tribes, and Federal land management agencies



1 shall notify each other regarding nominations made
2 under this subsection for roads that—

3 “(A) are within the jurisdictional boundary
4 of the State, Federal land management agency,
5 or Indian tribe; or

6 “(B) directly connect to roads for which
7 the State, Federal land management agency, or
8 Indian tribe is responsible.”.

9 (b) GRANTS AND TECHNICAL ASSISTANCE.—Section
10 162(b) of such title is amended—

11 (1) in paragraph (1) by inserting “and Indian
12 tribes” after “provide technical assistance to
13 States”;

14 (2) in paragraph (1)(A) by striking “designated
15 as” and all that follows through “; and” and insert-
16 ing “designated as—

17 “(i) National Scenic Byways;

18 “(ii) All-American Roads;

19 “(iii) America’s Byways;

20 “(iv) State scenic byways; or

21 “(v) Indian tribe scenic byways; and”;

22 and

23 (3) in paragraph (1)(B) by inserting “or Indian
24 tribe” after “State”;



1 (4) in paragraph (2)(A) by striking “Byway or
2 All-American Road” and inserting “Byway, All-
3 American Road, or 1 of America’s Byways”;

4 (5) in paragraph (2)(B)—

5 (A) by striking “State-designated” and in-
6 serting “State or Indian tribe”; and

7 (B) by striking “designation as a” and all
8 that follows through “; and” and inserting
9 “designation as—

10 “(i) a National Scenic Byway;

11 “(ii) an All-American Road; or

12 “(iii) 1 of America’s Byways; and”;

13 and

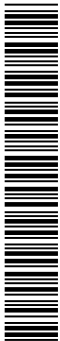
14 (6) in paragraph (2)(C) by inserting “or Indian
15 tribe” after “State”.

16 (c) ELIGIBLE PROJECTS.—Section 162(c) of such
17 title is amended—

18 (1) in paragraph (1) by inserting “or Indian
19 tribe” after “State”;

20 (2) in paragraph (3)—

21 (A) by inserting “Indian tribe scenic
22 byway,” after “improvements to a State scenic
23 byway,”; and



1 (B) by inserting “Indian tribe scenic
2 byway,” after “designation as a State scenic
3 byway,”; and

4 (3) in paragraph (4) by striking “passing
5 lane,”.

6 (d) CONFORMING AMENDMENT.—Section 162(e) of
7 such title is amended by inserting “or Indian tribe” after
8 “State”.

9 **SEC. 1803. AMERICA’S BYWAYS RESOURCE CENTER.**

10 (a) IN GENERAL.—The Secretary shall allocate funds
11 made available to carry out this section to the America’s
12 Byways Resource Center established pursuant to section
13 1215(b)(1) of the Transportation Equity Act for the 21st
14 Century (112 Stat. 209).

15 (b) TECHNICAL SUPPORT AND EDUCATION.—

16 (1) USE OF FUNDS.—The Center shall use
17 funds allocated to the Center under this section to
18 continue to provide technical support and conduct
19 educational activities for the national scenic byways
20 program established under section 162 of title 23,
21 United States Code.

22 (2) ELIGIBLE ACTIVITIES.—Technical support
23 and educational activities carried out under this sub-
24 section shall provide local officials and organizations
25 associated with National Scenic Byways, All-Amer-



1 ican Roads, and America's Byways with proactive,
2 technical, and on-site customized assistance, includ-
3 ing training, communications (including a public
4 awareness series), publications, conferences, on-site
5 meetings, and other assistance considered appro-
6 priate to develop and sustain such byways and
7 roads.

8 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
9 authorized to be appropriated out of the Highway Trust
10 Fund (other than the Mass Transit Account) to carry out
11 this section \$1,500,000 for fiscal year 2005 and
12 \$3,000,000 for each of fiscal years 2006 through 2009.

13 (d) APPLICABILITY OF TITLE 23.—Funds authorized
14 by this section shall be available for obligation in the same
15 manner as if such funds were apportioned under chapter
16 1 of title 23, United States Code; except that the Federal
17 share of the cost of any project or activity carried out
18 under this section shall be 100 percent, and such funds
19 shall remain available until expended and shall not be
20 transferable.

21 **SEC. 1804. NATIONAL HISTORIC COVERED BRIDGE PRESER-**
22 **VATION.**

23 (a) DEFINITIONS.—In this section, the following defi-
24 nitions apply:



1 (1) HISTORIC COVERED BRIDGE.—The term
2 “historic covered bridge” means a covered bridge
3 that is listed or eligible for listing on the National
4 Register of Historic Places.

5 (2) STATE.—The term “State” has the mean-
6 ing such term has in section 101(a) of title 23,
7 United States Code.

8 (b) HISTORIC COVERED BRIDGE PRESERVATION.—
9 The Secretary shall—

10 (1) collect and disseminate information on his-
11 toric covered bridges;

12 (2) conduct educational programs relating to
13 the history and construction techniques of historic
14 covered bridges;

15 (3) conduct research on the history of historic
16 covered bridges; and

17 (4) conduct research on, and study techniques
18 for, protecting historic covered bridges from rot, fire,
19 natural disasters, or weight-related damage.

20 (c) GRANTS.—

21 (1) IN GENERAL.—The Secretary shall make a
22 grant to a State that submits an application to the
23 Secretary that demonstrates a need for assistance in
24 carrying out 1 or more historic covered bridge
25 projects described in paragraph (2).



1 (2) ELIGIBLE PROJECTS.—A grant under para-
2 graph (1) may be made for a project—

3 (A) to rehabilitate or repair a historic cov-
4 ered bridge; or

5 (B) to preserve a historic covered bridge,
6 including through—

7 (i) installation of a fire protection sys-
8 tem, including a fireproofing or fire detec-
9 tion system and sprinklers;

10 (ii) installation of a system to prevent
11 vandalism and arson; or

12 (iii) relocation of a bridge to a preser-
13 vation site.

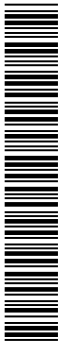
14 (3) AUTHENTICITY REQUIREMENTS.—A grant
15 under paragraph (1) may be made for a project only
16 if—

17 (A) to the maximum extent practicable, the
18 project—

19 (i) is carried out in the most histori-
20 cally appropriate manner; and

21 (ii) preserves the existing structure of
22 the historic covered bridge; and

23 (B) the project provides for the replace-
24 ment of wooden components with wooden com-



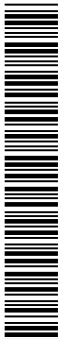
1 ponents, unless the use of wood is impracticable
2 for safety reasons.

3 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
4 authorized to be appropriated to carry out this section,
5 out of the Highway Trust Fund (other than the Mass
6 Transit Account), \$10,000,000 for each of fiscal years
7 2006 through 2009.

8 (e) APPLICABILITY OF TITLE 23.—Funds made
9 available to carry out this section shall be available for
10 obligation in the same manner as if the funds were appor-
11 tioned under chapter 1 of title 23, United States Code;
12 except that the Federal share of the cost of any project
13 or activity carried out under this section shall be deter-
14 mined in accordance with section 120 of such title, and
15 such funds shall remain available until expended and shall
16 not be transferable.

17 **SEC. 1805. USE OF DEBRIS FROM DEMOLISHED BRIDGES**
18 **AND OVERPASSES.**

19 (a) IN GENERAL.—Any State that demolishes a
20 bridge or an overpass that is eligible for Federal assistance
21 under the highway bridge replacement and rehabilitation
22 program under section 144 of title 23, United States
23 Code, is directed to first make the debris from the demoli-
24 tion of such bridge or overpass available for beneficial use



1 by a Federal, State, or local government, unless such use
2 obstructs navigation.

3 (b) RECIPIENT RESPONSIBILITIES.—A recipient of
4 the debris described in subsection (a) shall—

5 (1) bear the additional cost associated with hav-
6 ing the debris made available;

7 (2) ensure that placement of the debris com-
8 plies with applicable law; and

9 (3) assume all future legal responsibility arising
10 from the placement of the debris, which may include
11 entering into an agreement to hold the owner of the
12 demolished bridge or overpass harmless in any liabil-
13 ity action.

14 (c) DEFINITION.—In this section, the term “bene-
15 ficial use” means the application of the debris for purposes
16 of shore erosion control or stabilization, ecosystem restora-
17 tion, and marine habitat creation.

18 **SEC. 1806. ADDITIONAL AUTHORIZATION OF CONTRACT AU-**
19 **THORITY FOR STATES WITH INDIAN RES-**
20 **ERVATIONS.**

21 Section 1214(d)(5)(A) of the Transportation Equity
22 Act for the 21st Century (23 U.S.C. 202 note; 112 Stat.
23 206) is amended by striking “\$1,500,000 for each of fiscal
24 years 1998 through 2003” and inserting “\$1,800,000 for
25 each of fiscal years 2005 through 2009”.



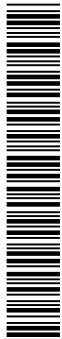
1 **SEC. 1807. NONMOTORIZED TRANSPORTATION PILOT PRO-**
2 **GRAM.**

3 (a) ESTABLISHMENT.—The Secretary shall establish
4 and carry out a nonmotorized transportation pilot pro-
5 gram to construct, in the following 4 communities selected
6 by the Secretary, a network of nonmotorized transpor-
7 tation infrastructure facilities, including sidewalks, bicycle
8 lanes, and pedestrian and bicycle trails, that connect di-
9 rectly with transit stations, schools, residences, businesses,
10 recreation areas, and other community activity centers:

- 11 (1) Columbia, Missouri.
12 (2) Marin County, California.
13 (3) Minneapolis-St. Paul, Minnesota.
14 (4) Sheboygan County, Wisconsin.

15 (b) PURPOSE.—The purpose of the program shall be
16 to demonstrate the extent to which bicycling and walking
17 can carry a significant part of the transportation load, and
18 represent a major portion of the transportation solution,
19 within selected communities.

20 (c) GRANTS.—In carrying out the program, the Sec-
21 retary may make a grant of \$6,250,000 per fiscal year
22 for each of the communities set forth in subsection (a)
23 to State, local, and regional agencies that the Secretary
24 determines are suitably equipped and organized to carry
25 out the objectives and requirements of this section. An
26 agency that receives a grant under this section may sub-



1 allocate grant funds to a nonprofit organization to carry
2 out the program under this section.

3 (d) STATISTICAL INFORMATION.—In carrying out the
4 program, the Secretary shall develop statistical informa-
5 tion on changes in motor vehicle, nonmotorized transpor-
6 tation, and public transportation usage in communities
7 participating in the program and assess how such changes
8 decrease congestion and energy usage, increase the fre-
9 quency of bicycling and walking, and promote better
10 health and a cleaner environment.

11 (e) REPORTS.—The Secretary shall submit to Con-
12 gress an interim report not later than September 30,
13 2007, and a final report not later than September 30,
14 2010, on the results of the program.

15 (f) FUNDING.—

16 (1) AUTHORIZATION OF APPROPRIATIONS.—
17 There is authorized to be appropriated to carry out
18 this section, out of the Highway Trust Fund (other
19 than the Mass Transit Account), \$25,000,000 for
20 each of fiscal years 2006 through 2009.

21 (2) CONTRACT AUTHORITY.—Funds authorized
22 to be appropriated by this section shall be available
23 for obligation in the same manner and to the same
24 extent as if the funds were apportioned under chap-
25 ter 1 of title 23, United States Code; except that the



1 Federal share of the cost of the project shall be 100
2 percent, and the funds shall remain available until
3 expended and shall not be transferable.

4 (g) TREATMENT OF PROJECTS.—Notwithstanding
5 any other provision of law, projects assisted under this
6 subsection shall be treated as projects on a Federal-aid
7 system under chapter 1 of title 23, United States Code.

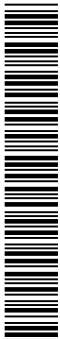
8 **SEC. 1808. ADDITION TO CMAQ-ELIGIBLE PROJECTS.**

9 (a) FORMER 1-HOUR MAINTENANCE AREAS.—Sec-
10 tion 149(b) of title 23, United States Code, is amended
11 in the matter preceding paragraph (1)(A) by inserting “or
12 is required to prepare, and file with the Administrator of
13 the Environmental Protection Agency, maintenance plans
14 under the Clean Air Act (42 U.S.C. 7401 et seq.)” after
15 “1997,”.

16 (b) ELIGIBLE PROJECTS.—Section 149(b) of such
17 title is amended—

18 (1) by striking paragraph (1) and inserting the
19 following:

20 “(1)(A)(i) if the Secretary, after consultation
21 with the Administrator determines, on the basis of
22 information published by the Environmental Protec-
23 tion Agency pursuant to section 108(f)(1)(A) of the
24 Clean Air Act (other than clause (xvi)) that the
25 project or program is likely to contribute to—



1 “(I) the attainment of a national am-
2 bient air quality standard; or

3 “(II) the maintenance of a national
4 ambient air quality standard in a mainte-
5 nance area; and

6 “(ii) a high level of effectiveness in reducing air
7 pollution, in cases of projects or programs where
8 sufficient information is available in the database es-
9 tablished pursuant to subsection (h) to determine
10 the relative effectiveness of such projects or pro-
11 grams; or,

12 “(B) in any case in which such information is
13 not available, if the Secretary, after such consulta-
14 tion, determines that the project or program is part
15 of a program, method, or strategy described in such
16 section 108(f)(1)(A);”.

17 (2) in paragraph (4)—

18 (A) by inserting “, including advanced
19 truck stop electrification systems,” after “facil-
20 ity or program”; and

21 (B) by striking “or” at the end;

22 (3) in paragraph (5)—

23 (A) by inserting “improve transportation
24 systems management and operations that miti-



1 gate congestion and improve air quality,” after
2 “intersections,”; and

3 (B) by striking the period at the end and
4 inserting a semicolon; and

5 (4) by adding at the end the following:

6 “(6) if the project or program involves the pur-
7 chase of integrated, interoperable emergency com-
8 munications equipment; or

9 “(7) if the project or program is for—

10 “(A) the purchase of diesel retrofits that
11 are—

12 “(i) for motor vehicles (as defined in
13 section 216 of the Clean Air Act (42
14 U.S.C. 7550)); or

15 “(ii) published in the list under sub-
16 section (f)(2) for non-road vehicles and
17 non-road engines (as defined in section
18 216 of the Clean Air Act (42 U.S.C.
19 7550)) that are used in construction
20 projects that are—

21 “(I) located in nonattainment or
22 maintenance areas for ozone, PM₁₀,
23 or PM_{2.5} (as defined under the Clean
24 Air Act (42 U.S.C. 7401 et seq.));
25 and



1 “(II) funded, in whole or in part,
2 under this title; or

3 “(B) the conduct of outreach activities that
4 are designed to provide information and tech-
5 nical assistance to the owners and operators of
6 diesel equipment and vehicles regarding the
7 purchase and installation of diesel retrofits.”.

8 (c) STATES RECEIVING MINIMUM APPORTION-
9 MENT.—Section 149(c) of such title is amended—

10 (1) in paragraph (1) by striking “for any
11 project eligible under the surface transportation pro-
12 gram under section 133.” and inserting the fol-
13 lowing: “for any project in the State that—

14 “(A) would otherwise be eligible under this
15 section as if the project were carried out in a
16 nonattainment or maintenance area; or

17 “(B) is eligible under the surface transpor-
18 tation program under section 133.”; and

19 (2) in paragraph (2) by striking “for any
20 project in the State eligible under section 133.” and
21 inserting the following: “for any project in the State
22 that—

23 “(A) would otherwise be eligible under this
24 section as if the project were carried out in a
25 nonattainment or maintenance area; or



1 “(B) is eligible under the surface transpor-
2 tation program under section 133.”.

3 (d) COST-EFFECTIVE EMISSION REDUCTION GUID-
4 ANCE.—Section 149 of such title is amended by adding
5 at the end the following:

6 “(f) COST-EFFECTIVE EMISSION REDUCTION GUID-
7 ANCE.—

8 “(1) DEFINITIONS.—In this subsection, the fol-
9 lowing definitions apply:

10 “(A) ADMINISTRATOR.—The term ‘Admin-
11 istrator’ means the Administrator of the Envi-
12 ronmental Protection Agency.

13 “(B) DIESEL RETROFIT.—The term ‘diesel
14 retrofit’ means a replacement, repowering, re-
15 building, after treatment, or other technology,
16 as determined by the Administrator.

17 “(2) EMISSION REDUCTION GUIDANCE.—The
18 Administrator, in consultation with the Secretary,
19 shall publish a list of diesel retrofit technologies and
20 supporting technical information for—

21 “(A) diesel emission reduction technologies
22 certified or verified by the Administrator, the
23 California Air Resources Board, or any other
24 entity recognized by the Administrator for the
25 same purpose;



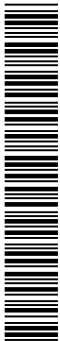
1 “(B) diesel emission reduction technologies
2 identified by the Administrator as having an
3 application and approvable test plan for ver-
4 ification by the Administrator or the California
5 Air Resources Board that is submitted not later
6 that 18 months of the date of enactment of this
7 subsection;

8 “(C) available information regarding the
9 emission reduction effectiveness and cost effec-
10 tiveness of technologies identified in this para-
11 graph, taking into consideration air quality and
12 health effects.

13 “(3) PRIORITY.—

14 “(A) IN GENERAL.—States and metropoli-
15 tan planning organizations shall give priority in
16 distributing funds received for congestion miti-
17 gation and air quality projects and programs
18 from apportionments derived from application
19 of sections 104(b)(2)(B) and 104(b)(2)(C) to—

20 “(i) diesel retrofits, particularly where
21 necessary to facilitate contract compliance,
22 and other cost-effective emission reduction
23 activities, taking into consideration air
24 quality and health effects; and



1 “(ii) cost-effective congestion mitiga-
2 tion activities that provide air quality bene-
3 fits.

4 “(B) SAVINGS.—This paragraph is not in-
5 tended to disturb the existing authorities and
6 roles of governmental agencies in making final
7 project selections.

8 “(4) NO EFFECT ON AUTHORITY OR RESTRIC-
9 TIONS.—Nothing in this subsection modifies or oth-
10 erwise affects any authority or restriction established
11 under the Clean Air Act (42 U.S.C. 7401 et seq.)
12 or any other law (other than provisions of this title
13 relating to congestion mitigation and air quality).”.

14 (e) IMPROVED INTERAGENCY CONSULTATION.—Sec-
15 tion 149 of such title (as amended by subsection (d)) is
16 amended by adding at the end the following:

17 “(g) INTERAGENCY CONSULTATION.—The Secretary
18 shall encourage States and metropolitan planning organi-
19 zations to consult with State and local air quality agencies
20 in nonattainment and maintenance areas on the estimated
21 emission reductions from proposed congestion mitigation
22 and air quality improvement programs and projects.”.

23 (f) EVALUATION AND ASSESSMENT OF CMAQ
24 PROJECTS.—Section 149 of such title (as amended by



1 subsection (e)) is amended by adding at the end the fol-
2 lowing:

3 “(h) EVALUATION AND ASSESSMENT OF
4 PROJECTS.—

5 “(1) IN GENERAL.—The Secretary, in consulta-
6 tion with the Administrator of the Environmental
7 Protection Agency, shall evaluate and assess a rep-
8 resentative sample of projects funded under the con-
9 gestion mitigation and air quality program to—

10 “(A) determine the direct and indirect im-
11 pact of the projects on air quality and conges-
12 tion levels; and

13 “(B) ensure the effective implementation
14 of the program.

15 “(2) DATABASE.—Using appropriate assess-
16 ments of projects funded under the congestion miti-
17 gation and air quality program and results from
18 other research, the Secretary shall maintain and dis-
19 seminate a cumulative database describing the im-
20 pacts of the projects.

21 “(3) CONSIDERATION.—The Secretary, in con-
22 sultation with the Administrator, shall consider the
23 recommendations and findings of the report sub-
24 mitted to Congress under section 1110(e) of the
25 Transportation Equity Act for the 21st Century



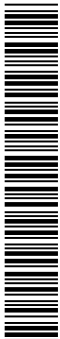
1 (112 Stat. 144), including recommendations and
2 findings that would improve the operation and eval-
3 uation of the congestion mitigation and air quality
4 improvement program.”.

5 (g) FLEXIBILITY IN THE STATE OF MONTANA.—The
6 State of Montana may use funds apportioned under sec-
7 tion 104(b)(2) of title 23, United States Code, for the op-
8 eration of public transit activities that serve a nonattain-
9 ment or maintenance area.

10 (h) AVAILABILITY OF FUNDS FOR STATE OF MICHIGAN.—The State of Michigan may use funds apportioned
11 under section 104(b)(2) of such title for the operation and
12 maintenance of intelligent transportation system strate-
13 gies that serve a nonattainment or maintenance area.

14 (i) AVAILABILITY OF FUNDS FOR THE STATE OF MAINE.—The State of Maine may use funds apportioned
15 under section 104(b)(2) of such title to support, through
16 September 30, 2009, the operation of passenger rail serv-
17 ice between Boston, Massachusetts, and Portland, Maine.

18 (j) AVAILABILITY OF FUNDS FOR OREGON.—The
19 State of Oregon may use funds apportioned on or before
20 September 30, 2009, under section 104(b)(2) of such title
21 to support the operation of additional passenger rail serv-
22 ice between Eugene and Portland.
23
24



1 (k) AVAILABILTY OF FUNDS FOR CERTAIN OTHER
2 STATES.—The States of Missouri, Iowa, Minnesota, Wis-
3 consin, Illinois, Indiana, and Ohio may use funds appor-
4 tioned under section 104(b)(2) of such title to purchase
5 alternative fuel (as defined in section 301 of the Energy
6 Policy Act of 1992 (42 U.S.C. 13211)) or biodiesel.

